

AMENDMENT # 2

Rep. Harris

TO: HCS SB 1001 (FIN)

OFFERED BY:

Amend the title to include "relating to the tobacco product Master Settlement Agreement" (title amendment)

Insert the following sections.

* Section AS 45.53.020(b) is amended to read:

(b) A tobacco product manufacturer that places money into escrow under (a)(2) of this section is entitled to receive the interest or other appreciation on such money as earned. Such money itself shall be released from escrow only under the following circumstances:

(1) to pay a judgment or settlement on a released claim brought against such tobacco product manufacturer by this state or a releasing party located or residing in this state; the funds shall be released from escrow under this paragraph in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under the judgment or settlement;

(2) to the extent that the tobacco product manufacturer establishes that the amount that it was required to place into escrow on account of units sold in the state in a particular year was greater than the Master Settlement Agreement payments, as determined under sec. IX(i) of the Master Settlement Agreement, including, after final determination of all adjustments, payments that the manufacturer would have been required to make on account of those units had it

been a participating manufacturer [STATE'S ALLOCABLE SHARE OF THE TOTAL PAYMENTS THAT THE MANUFACTURER WOULD HAVE BEEN REQUIRED TO MAKE IN THAT YEAR UNDER THE MASTER SETTLEMENT AGREEMENT HAD IT BEEN A PARTICIPATING MANUFACTURER, AS SUCH PAYMENTS ARE DETERMINED UNDER SEC. IX(i)(2) OF THE MASTER SETTLEMENT AGREEMENT AND BEFORE ANY OF THE ADJUSTMENTS OR OFFSETS DESCRIBED IN SEC. IX(i)(3) OF THAT AGREEMENT OTHER THAN THE INFLATION ADJUSTMENT], the excess shall be released from escrow and revert back to that tobacco product manufacturer; or

(3) to the extent not released from escrow under (1) or (2) of this subsection [SUBSECTIONS], funds placed into escrow shall be released from escrow and revert back to the tobacco product manufacturer 25 years after the date on which they were placed into escrow.

Sec. AS 45.53.020(b) is repealed and reenacted to read:

(b) A tobacco product manufacturer that places money into escrow under (a)(2) of this section is entitled to receive the interest or other appreciation on such money as earned. Such money itself shall be released from escrow only under the following circumstances:

(1) to pay a judgment or settlement on a released claim brought against such tobacco product manufacturer by this state or a releasing party located or residing in this state; the funds shall be released from escrow under this paragraph in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under the judgment or settlement;

(2) to the extent not released from escrow under (1) of this subsection, funds placed into escrow shall be released from escrow and revert back to the tobacco product manufacturer 25 years after the date on which they were placed into escrow.

Sec. AS 45.53.020(b) is repealed and reenacted to read:

(b) A tobacco product manufacturer that places money into escrow under (a)(2) of this section is entitled to receive the interest or other appreciation on such money as earned. Such money itself shall be released from escrow only under the following circumstances:

(1) to pay a judgment or settlement on a released claim brought against such tobacco product manufacturer by this state or a releasing party located or residing in this state; the funds shall be released from escrow under this paragraph in the order

in which they were placed into escrow and only to the extent and at the time necessary to make payments required under the judgment or settlement;

(2) to the extent that the tobacco product manufacturer establishes that the amount that it was required to place into escrow in a particular year was greater than the state's allocable share of the total payments that the manufacturer would have been required to make in that year under the master settlement agreement had it been a participating manufacturer, as such payments are determined under sec. IX(i)(2) of the master settlement agreement and before any of the adjustments or offsets described in sec. IX(i)(3) of that agreement other than the inflation adjustment, the excess shall be released from escrow and revert back to that tobacco product manufacturer; or

(3) to the extent not released from escrow under (1) or (2) of this subsection, funds placed into escrow shall be released from escrow and revert back to the tobacco product manufacturer 25 years after the date on which they were placed into escrow.

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

CONDITIONAL EFFECT. (a) Section 2 of this Act takes effect only if AS 45.53.020(b)(2), as amended in sec. 1 of this Act, is held by a court of competent jurisdiction to be unconstitutional.

(b) Section 3 of this Act takes effect only if AS 45.53.020(b)(2), as amended in sec. 1 and in sec. 2 of this Act, are held by a court of competent jurisdiction to be unconstitutional.

* Sec. Section 1 of this Act takes effect July 1, 2004.

* Sec. If sec. 2 of this Act takes effect under sec. 4(a) of this Act, it takes effect on the day after the date of a final order or decision by a court of competent jurisdiction holding AS 45.53.020(b)(2), as amended in sec. 1 of this Act, to be unconstitutional.

* Sec. If sec. 3 of this Act takes effect under sec. 4(b) of this Act, it takes effect on the day after the date of a final order or decision by a court of competent jurisdiction holding AS 45.53.020(b)(2), as amended in sec. 2 of this Act, to be unconstitutional.

Renumber accordingly.