

**HOUSE BILL NO. 503**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

**BY THE HOUSE FINANCE COMMITTEE**

**Introduced: 2/16/04**  
**Referred: Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the tobacco product Master Settlement Agreement; and providing**  
2 **for an effective date."**

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

4 **\* Section 1.** AS 45.53.020(b) is amended to read:

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

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

14 (2) to the extent that the tobacco product manufacturer establishes that

1 the amount that it was required to place into escrow on account of units sold in the  
 2 state in a particular year was greater than the Master Settlement Agreement  
 3 payments, as determined under sec. IX(i) of the Master Settlement Agreement,  
 4 including, after final determination of all adjustments, payments that the  
 5 manufacturer would have been required to make on account of those units had it  
 6 been a participating manufacturer [STATE'S ALLOCABLE SHARE OF THE  
 7 TOTAL PAYMENTS THAT THE MANUFACTURER WOULD HAVE BEEN  
 8 REQUIRED TO MAKE IN THAT YEAR UNDER THE MASTER SETTLEMENT  
 9 AGREEMENT HAD IT BEEN A PARTICIPATING MANUFACTURER, AS SUCH  
 10 PAYMENTS ARE DETERMINED UNDER SEC. IX(i)(2) OF THE MASTER  
 11 SETTLEMENT AGREEMENT AND BEFORE ANY OF THE ADJUSTMENTS OR  
 12 OFFSETS DESCRIBED IN SEC. IX(i)(3) OF THAT AGREEMENT OTHER THAN  
 13 THE INFLATION ADJUSTMENT], the excess shall be released from escrow and  
 14 revert back to that tobacco product manufacturer; or

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

19 \* **Sec. 2.** AS 45.53.020(b) is repealed and reenacted to read:

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

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

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

1 \* **Sec. 3.** AS 45.53.020(b) is repealed and reenacted to read:

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

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

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

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

23 \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

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

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

30 \* **Sec. 5.** Section 1 of this Act takes effect July 1, 2004.

31 \* **Sec. 6.** If sec. 2 of this Act takes effect under sec. 4(a) of this Act, it takes effect on the

1 day after the date of a final order or decision by a court of competent jurisdiction holding  
2 AS 45.53.020(b)(2), as amended in sec. 1 of this Act, to be unconstitutional.

3 \* **Sec. 7.** If sec. 3 of this Act takes effect under sec. 4(b) of this Act, it takes effect on the  
4 day after the date of a final order or decision by a court of competent jurisdiction holding  
5 AS 45.53.020(b)(2), as amended in sec. 2 of this Act, to be unconstitutional.