

HOUSE BILL NO. 246

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 4/1/05

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act requiring a member to opt into a class action; and amending Rule 23(c), Alaska**
2 **Rules of Civil Procedure."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 DIRECT COURT RULE AMENDMENT. Rule 23(c), Alaska Rules of Civil
7 Procedure, is amended to read:

8 (c) **Determination by Order Whether Class Action to Be Maintained -**
9 **Notice - Judgment - Actions Conducted Partially as Class Actions.**

10 (1) As soon as practicable after the commencement of an action
11 brought as a class action, the court shall determine by order whether it is to be so
12 maintained. An order under this subdivision may be conditional, and may be altered
13 or amended before the decision on the merits.

14 (2) In any class action maintained under subdivision (b) (3), the court

1 shall direct to the members of the class the best notice practicable under the
 2 circumstances, including individual notice to all members who can be identified
 3 through reasonable effort. The notice shall advise each member that (A) the court will
 4 **include** [EXCLUDE] the member **in** [FROM] the class if the member so requests by a
 5 specified date; (B) the judgment, whether favorable or not, will include all members
 6 who **requested inclusion** [DO NOT REQUEST EXCLUSION]; and (C) any member
 7 who **requests inclusion** [DOES NOT REQUEST EXCLUSION] may, if the member
 8 desires, enter an appearance through his counsel.

9 (3) The judgment in an action maintained as a class action under
 10 subdivision (b) (1) or (b) (2), whether or not favorable to the class, shall include and
 11 describe those whom the court finds to be members of the class. The judgment in the
 12 action maintained as a class action under subdivision (b) (3), whether or not favorable
 13 to the class, shall include and specify or describe those to whom the notice provided in
 14 subdivision (c) (2) was directed, and who [HAVE NOT] requested **inclusion**
 15 [EXCLUSION], and whom the court finds to be members of the class.

16 (4) When appropriate (A) an action may be brought or maintained as a
 17 class action with respect to particular issues, or (B) a class may be divided into
 18 subclasses and each subclass treated as a class, and the provisions of this rule shall
 19 then be counted and applied accordingly.

20 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 **CONDITIONAL EFFECT.** This Act takes effect only if this Act receives the two-
 23 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
 24 Alaska.