

AMENDMENT #1

OFFERED IN THE HOUSE
TO: HB 366

BY C HENNAULT
CRAWFORD

1 Page 1, line 2, following "fund;": *(title amendment)*

2 Insert "relating to execution upon permanent fund dividends by civilian process
3 servers using electronic procedures; amending Rule 89, Alaska Rules of Civil Procedure;"

4

5 Page 2, following line 8:

6 Insert new bill sections to read:

7 "* Sec. 2. AS 43.23.065(a) is amended to read:

8 (a) Except as provided in (b) of this section, 20 percent of the annual permanent
9 fund dividend payable to an individual is exempt from levy, execution, garnishment,
10 attachment, or any other remedy for the collection of debt. No other exemption applies to
11 a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not
12 been delivered to the debtor may be served on the commissioner by

13 (1) certified mail, return receipt requested; or

14 (2) a civilian process server licensed by the commissioner of public
15 safety using electronic execution procedures, as provided under regulations adopted
16 by the department [. UPON RECEIPT OF A WRIT BY CERTIFIED MAIL, RETURN
17 RECEIPT REQUESTED, THE COMMISSIONER SHALL DELIVER THAT PORTION
18 OF THE DIVIDEND EXECUTED UPON TO THE COURT ALONG WITH THE
19 CASE NAME AND NUMBER].

20 * Sec. 3. AS 43.23.065(d) is amended to read:

21 (d) An assignment of or levy, execution, garnishment, attachment, or other
22 remedy for the collection of debt applied to a dividend for a year may not be accepted by

1 the department before April 1 of that same year. AS 09.38.080(c) and 09.38.085 do not
2 apply to a levy on a permanent fund dividend. Upon receipt of a writ of execution
3 under (a) of this section or another court order, the commissioner shall deliver to
4 the court that portion of the dividend executed upon along with the case name and
5 number. [THE DEPARTMENT SHALL INCLUDE THE CASE NUMBER WITH A
6 DIVIDEND OR PORTION OF A DIVIDEND TRANSMITTED TO THE COURT IN
7 RESPONSE TO A WRIT OF EXECUTION OR OTHER COURT ORDER.] At the time
8 payment is made to the court, the department shall send to the individual at the address
9 provided in the individual's dividend application and to the court that issued the writ or
10 order a notice that contains

11 (1) notification that all or part of the individual's dividend has been seized
12 under a writ of execution or court order;

13 (2) the name and address of the court that issued the writ or order;

14 (3) the case number for which the writ or order was issued;

15 (4) the amount seized under the writ or order; and

16 (5) notification that the individual has 30 days from the date the notice is
17 mailed in which to file with the court an objection to the seizure if a mistake has been
18 made.

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

21 **INDIRECT COURT RULE AMENDMENT.** The provisions of secs. 2 and 3 of this Act
22 have the effect of changing Rule 89, Alaska Rules of Civil Procedure, by allowing a civilian
23 process server licensed by the commissioner of public safety to execute upon an Alaska
24 Permanent Fund dividend by electronic means in accordance with regulations adopted by the
25 Department of Revenue.

26 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **CONDITIONAL EFFECT.** The amendments to AS 43.23.065 made by secs. 2 and 3 of
29 this Act take effect only if sec. 4 of this Act receives the two-thirds majority vote of each house
30 required by art. IV, sec. 15, Constitution of the State of Alaska."
31

1 Renumber the following bill sections accordingly.

2

3 Page 2, line 9:

4 Delete "This Act"

5 Insert "Section 1 of this Act"

6

7 Page 2, following line 9:

8 Insert a new bill section to read:

9 "* **Sec. 7.** If, under sec. 5 of this Act, secs. 2 and 3 of this Act take effect, they take effect

10 January 1, 2009."