

**CS FOR SENATE BILL NO. 265(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

**BY THE SENATE FINANCE COMMITTEE**

**Offered: 3/21/08**

**Referred: Rules**

**Sponsor(s): SENATORS MCGUIRE, Dyson, Therriault, Bunde, Thomas, Stedman, Wielechowski, Ellis, Elton**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the payment of permanent fund dividends to certain individuals**  
2 **required to register as sex offenders or child kidnappers; relating to execution upon**  
3 **permanent fund dividends by civilian process servers using electronic procedures;**  
4 **amending Rule 89, Alaska Rules of Civil Procedure; and providing for an effective**  
5 **date."**

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

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

8 **Sec. 43.23.021. Delayed payment of certain dividends.** (a) Notwithstanding  
9 other provisions regarding the payment of permanent fund dividends, if an individual  
10 is required to register as a sex offender or child kidnapper under AS 12.63 and has not  
11 registered or has not completed the required periodic verifications or notices required  
12 under AS 12.63, payment of the dividend for that individual shall be delayed.

13 (b) If payment of a dividend is delayed, the department shall notify the

1 individual in writing of the delayed payment status, explain the requirements of this  
 2 section, and request proof of registration and compliance with the verifications and  
 3 notices required under AS 12.63. The dividend may not be paid unless, within one  
 4 year after the notification, the department determines that the individual has registered  
 5 and is in compliance with the verifications and notices required under AS 12.63.

6 (c) Notwithstanding other provisions, a permanent fund dividend that has not  
 7 become payable to an individual under this section is not subject to levy, execution,  
 8 garnishment, attachment, or any other remedy for the collection of debt until that  
 9 dividend becomes payable or is paid to the individual.

10 (d) If an individual for whom payment of a permanent fund dividend has been  
 11 delayed but remains payable under (b) of this section dies before the dividend is paid  
 12 or payable, the department shall pay the dividend to a personal representative of the  
 13 individual's estate.

14 (e) The department shall include notice with the dividend application form of  
 15 the requirements of (a) and (b) of this section.

16 \* **Sec. 2.** AS 43.23.025(a) is amended to read:

17 (a) By October 1 of each year, the commissioner shall determine the value of  
 18 each permanent fund dividend for that year by

19 (1) determining the total amount available for dividend payments,  
 20 which equals

21 (A) the amount of income of the Alaska permanent fund  
 22 transferred to the dividend fund under AS 37.13.145(b) during the current year;

23 (B) plus the unexpended and unobligated balances of prior  
 24 fiscal year appropriations that lapse into the dividend fund under  
 25 AS 43.23.045(d);

26 (C) less the amount necessary to pay prior year dividends from  
 27 the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and  
 28 43.23.055(3) and (7) [UNDER AS 43.23.055(3) AND (7)];

29 (D) less the amount necessary to pay dividends from the  
 30 dividend fund due to eligible applicants who, as determined by the department,  
 31 filed for a previous year's dividend by the filing deadline but who were not

1 included in a previous year's dividend computation;

2 (E) less appropriations from the dividend fund during the  
3 current year, including amounts to pay costs of administering the dividend  
4 program and the hold harmless provisions of AS 43.23.075;

5 (2) determining the number of individuals eligible to receive a  
6 dividend payment for the current year and the number of estates and successors  
7 eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

8 (3) dividing the amount determined under (1) of this subsection by the  
9 amount determined under (2) of this subsection.

10 \* **Sec. 3.** AS 43.23.065(a) is amended to read:

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

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

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

24 \* **Sec. 4.** AS 43.23.065(d) is amended to read:

25 (d) An assignment of or levy, execution, garnishment, attachment, or other  
26 remedy for the collection of debt applied to a dividend for a year may not be accepted  
27 by the department before April 1 of that same year. AS 09.38.080(c) and 09.38.085 do  
28 not apply to a levy on a permanent fund dividend. Upon receipt of a writ of  
29 execution under (a) of this section or another court order, the commissioner shall  
30 deliver to the court that portion of the dividend executed upon along with the  
31 case name and number. [THE DEPARTMENT SHALL INCLUDE THE CASE

1 NUMBER WITH A DIVIDEND OR PORTION OF A DIVIDEND TRANSMITTED  
 2 TO THE COURT IN RESPONSE TO A WRIT OF EXECUTION OR OTHER  
 3 COURT ORDER.] At the time payment is made to the court, the department shall  
 4 send to the individual at the address provided in the individual's dividend application  
 5 and to the court that issued the writ or order a notice that contains

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

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

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

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

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

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

16 **INDIRECT COURT RULE AMENDMENT.** The provisions of secs. 3 and 4 of this  
 17 Act have the effect of changing Rule 89, Alaska Rules of Civil Procedure, by allowing a  
 18 civilian process server licensed by the commissioner of public safety to execute upon an  
 19 Alaska Permanent Fund dividend by electronic means in accordance with regulations adopted  
 20 by the Department of Revenue.

21 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
 22 read:

23 **CONDITIONAL EFFECT.** The amendments to AS 43.23.065 made by secs. 3 and 4  
 24 of this Act take effect only if sec. 5 of this Act receives the two-thirds majority vote of each  
 25 house required by art. IV, sec. 15, Constitution of the State of Alaska.

26 \* **Sec. 7.** Sections 1 and 2 of this Act take effect January 1, 2009.

27 \* **Sec. 8.** If, under sec. 6 of this Act, secs. 3 and 4 of this Act take effect, they take effect  
 28 January 1, 2009.