

SENATE BILL NO. 91

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

BY THE SENATE FINANCE COMMITTEE

Introduced: 2/2/09

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the emergency energy relief program of the Alaska Energy**
2 **Authority; and providing for an effective date."**

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

4 *** Section 1.** AS 42.45 is amended by adding new sections to read:

5 **Article 4A. Emergency Energy Relief.**

6 **Sec. 42.45.201. Emergency energy relief program.** (a) Subject to
7 appropriations for the purpose, the authority shall provide persons with payments to
8 offset the cost of fuel used for residences under the emergency energy relief program.

9 (b) Subject to (a) of this section, a person may receive an emergency energy
10 relief payment based on the amount that exceeds \$3 a gallon that the person pays for
11 each gallon of fuel delivered September 1 through March 31 of each fiscal year for a
12 building in the state that is primarily used for one or more residences. The amount of
13 the emergency energy relief payment must include an amount to reimburse the sales
14 tax that the person paid for the fuel for which the emergency energy relief payment is

1 made. Payments may not be made for more than 600 gallons of fuel used for a single
2 family residence during each fiscal year. Payments may not be made for more than
3 300 gallons of fuel for each unit in a multifamily building used for that building during
4 each fiscal year. A payment may not be made for fuel used for a building owned by a
5 governmental entity. A person may apply for and receive more than one emergency
6 energy relief payment. If the authority estimates that appropriations to the authority
7 are insufficient to fully fund emergency energy relief for a fiscal year, the authority
8 may eliminate or reduce the payments on an equitable basis.

9 (c) A landlord or lessor that receives a payment under this section shall pass
10 on a benefit to the landlord's or lessor's tenant by lowering the amount of rent by the
11 amount attributable to the tenant's unit. A landlord or lessor may retain up to 10
12 percent of the payment otherwise required to be passed on to the tenant to cover
13 administrative costs. Failure to comply with the requirement of this subsection is a
14 violation of AS 45.50.471. The authority may audit the books and records of a
15 landlord or lessor for compliance with this subsection.

16 (d) A person who is an individual not acting on behalf of a business or other
17 organization that owns or manages residential property is eligible to receive a payment
18 under this section only if the individual is a state resident under AS 01.10.055. In
19 addition, to receive a payment under this section, a person shall

20 (1) apply for the payment on a form provided by the authority;

21 (2) provide, with each application, proof of purchase of fuel from a
22 qualified distributor on the list prepared under (e) of this section;

23 (3) verify that the fuel is used for a building that is primarily used for
24 one or more residences, identify the building, and identify the number of residential
25 units in the building;

26 (4) verify that the building is not owned by a government entity;

27 (5) supply other information that may be required by the authority.

28 (e) A business or other entity that supplies fuel for use in residential buildings
29 may apply in a manner required by the authority for inclusion on the qualified
30 distributor list prepared and kept updated by the authority under this subsection. As a
31 condition of becoming a qualified distributor, the business or other entity must submit

1 a signed statement to the authority, under penalty of unsworn falsification, on a form
2 or in a format prescribed by the authority, that the business or other entity will not
3 increase its price for fuel solely in response to this section, and that the pricing policy
4 of the business or other entity will remain consistent with prior practices and be based
5 on the same criteria, as though this section had not been enacted. The authority may
6 audit a qualified distributor's books and records to confirm that the statement made
7 under this subsection is complete and accurate. If the distributor reasonably believes a
8 delivery of fuel is made to a building primarily used for one or more residences,
9 during September 1 through March 31 of a fiscal year, the distributor shall agree to
10 identify the delivery as residential in a manner prescribed by the authority. The
11 distributor shall agree to submit to the authority its billing statements for purchases of
12 fuel for residences and related customer and sales information that may be requested
13 by the authority from time to time. The distributor shall provide other information
14 required by the authority.

15 (f) A person aggrieved by a decision of the authority regarding the person's
16 eligibility to receive an emergency energy relief payment, other than a determination
17 based on insufficient funding for emergency energy relief, may request a hearing
18 before the office of administrative hearings established under AS 44.64.

19 **Sec. 42.45.203. Effect of energy relief on other programs; exemption from**
20 **garnishment.** (a) In determining the eligibility of an individual under a public
21 assistance program administered by the Department of Health and Social Services in
22 which eligibility for assistance is based on financial need, the Department of Health
23 and Social Services may not consider a payment under AS 42.45.201 - 42.45.209 as
24 income or resources received by the individual or by a member of the individual's
25 household unless required to do so by federal law. The Department of Health and
26 Social Services shall notify all recipients of public assistance of the effects of
27 receiving emergency energy relief.

28 (b) An individual who is denied medical assistance under 42 U.S.C. 1396 -
29 1396v (Title XIX, Social Security Act) solely because of the receipt of a payment
30 under AS 42.45.201 - 42.45.209 by the individual or by a member of the individual's
31 household is eligible for state-funded medical assistance under AS 47.25.120 -

1 47.25.300 (general relief assistance). The individual is entitled to receive, for a period
2 not to exceed four months, the same level of medical assistance as the individual
3 would have received under 42 U.S.C. 1396 - 1396v had the emergency energy relief
4 not been received.

5 (c) An individual who is denied assistance solely because a payment under
6 AS 42.45.201 - 42.45.209 received by the individual or by a member of the
7 individual's household is counted as income or resources under federal law, other than
8 38 U.S.C. 1315, 1513, 1521, 1541, and 1542, is eligible for cash assistance under
9 AS 47.25.120 - 47.25.300 (general relief assistance). Notwithstanding the limit in
10 AS 47.25.130, the individual is entitled to receive, for a period not to exceed four
11 months, the same amount as the individual would have received under other public
12 assistance programs had the emergency energy relief not been received.

13 (d) A program that is established before the effective date of AS 42.45.201 -
14 42.45.209, that is administered by the state or any of its instrumentalities or
15 municipalities or by a Native organization under AS 47.27.070, 47.27.200, or
16 47.27.300, and for which eligibility is based on financial need may not consider a
17 payment under AS 42.45.201 - 42.45.209 as income or resources unless required to do
18 so by federal law.

19 (e) A veteran or the spouse or dependent of a living or deceased veteran who
20 is denied or receives reduced disability payments solely because a payment received
21 under AS 42.45.201 - 42.45.209 by the individual is counted as income is eligible for
22 cash assistance under AS 47.25.120 - 47.25.300 (general relief assistance).
23 Notwithstanding the limit in AS 47.25.130, the veteran or the spouse or dependent of a
24 living or deceased veteran is entitled to receive the same amount as the individual
25 would have received under 38 U.S.C. 1315, 1513, 1521, 1541, and 1542 had the
26 emergency energy relief not been received.

27 (f) Notwithstanding any contrary provision of state law, a payment under
28 AS 42.45.201 - 42.45.209 is exempt from levy, execution, garnishment, or any other
29 remedy for debt collection until after the payment has been received by the person. No
30 other exemption applies to emergency energy relief payments received under
31 AS 42.45.201 - 42.45.209.

1 **Sec. 42.45.205. Recovery of improper payments; criminal penalties.** (a) A
 2 person is liable to the state for the value of emergency energy relief improperly paid
 3 under AS 42.45.201 - 42.45.209 if the improper payment was based on inaccurate or
 4 false information provided by the person. In a civil action brought by the state to
 5 recover from the person the value of the emergency energy relief improperly paid, the
 6 state may recover from the person the costs of investigation and prosecution of the
 7 civil action, including attorney fees as determined under court rules.

8 (b) A person is guilty of a class A misdemeanor if the person

9 (1) uses fuel, payment for which has been partially reimbursed with a
 10 payment under AS 42.45.201 - 42.45.209,

11 (A) for a purpose other than use in a building that is primarily
 12 used for one or more residences; or

13 (B) for a building that is owned by a governmental entity; or

14 (2) resells fuel, payment for which has been partially reimbursed with
 15 a payment under AS 42.45.201 - 42.45.209.

16 **Sec. 42.45.207. Program administration.** (a) The authority

17 (1) shall administer AS 42.45.201 - 42.45.209, but may contract for the
 18 performance of some or all of those administrative duties; and

19 (2) may adopt regulations under AS 44.62 (Administrative Procedure
 20 Act) to implement AS 42.45.201 - 42.45.209.

21 (b) A form provided by the authority under AS 42.45.201 - 42.45.209 must
 22 include a warning that the submission of incomplete or inaccurate information is
 23 punishable as unsworn falsification in the second degree under AS 11.56.210.

24 **Sec. 42.45.209. Definition.** In AS 42.45.201 - 42.45.209, "fuel" means heating
 25 oil or propane.

26 * **Sec. 2.** AS 44.64.030(a) is amended by adding a new paragraph to read:

27 (41) AS 42.45.201 - 42.45.209 (emergency energy relief program).

28 * **Sec. 3.** AS 45.50.471(b) is amended by adding a new paragraph to read:

29 (56) violating AS 42.45.201(c) (failure of landlord or lessor to pass
 30 along an emergency energy relief program benefit to tenant or lessee).

31 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).