

Introduced: 4/7/69
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 363

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the execution of judgments."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 09.35 is amended by adding a new section to read:

9 Sec. 09.35.035. PROCEDURE, DEFAULT JUDGMENT OR NONAPPEARANCE OF
10 ATTORNEY FOR JUDGMENT DEBTOR. When a judgment has been obtained by
11 default, or no attorney has appeared on behalf of the judgment debtor
12 in the action in which the judgment was rendered, no execution upon the
13 judgment debtor's property may be obtained except in accordance with
14 the following procedures:

15 (1) Real property or personal property not capable of
16 physical seizure by a peace officer may not be sold or otherwise dis-
17 posed of until 15 days after service of notice of execution upon the
18 judgment debtor and proof of service of the notice has been filed with
19 the court, or until ordered by the court if the judgment debtor files
20 a claim for exemption of the property before its sale or disposition.

21 (2) Personal property capable of physical seizure, including
22 money, evidence of indebtedness, or other documents, shall be retained
23 by the peace officer or paid into the court to be held in escrow until
24 15 days after service of notice of execution upon the judgment debtor
25 and proof of service of the notice has been filed with the court, or
26 until such further disposition as the court orders if the judgment
27 debtor files a claim for exemption of the property before its sale or
28 other disposition.

29 (3) Notice of execution required by this section shall

1 specify the property as to which execution is sought, and shall name the
2 person who has possession of the property, and in addition shall include

3 (A) an explanation, in lay terminology, of the various
4 exemptions from execution which exist under state or federal law,
5 in the form and content prescribed by the state supreme court;

6 (B) blank forms which shall be used by the judgment
7 debtor for asserting claims for exemption, together with simplified
8 instructions for their use, all in the form prescribed by the
9 state supreme court.

10 (4) When a claim for exemption from execution is filed by a
11 judgment debtor, a hearing on the claim shall be held within three days
12 or as soon as practicable. When distance or other factors make a
13 prompt hearing impracticable, the court shall make such arrangements for
14 disposition of the matter as are just under the circumstances.

15 (5) If the judgment creditor cannot, after due diligence,
16 locate the judgment debtor, he may file an affidavit of that fact with
17 the court, and upon application, the court may authorize him to serve
18 the notice required under this section by publication.

19 (6) Each court which issues writs of execution shall, by
20 order, designate a trustee or other individual as the officer for ad-
21 ministration of this section. This individual shall receive funds paid
22 into the court, and is the appropriate person for service of claims for
23 exemption by the judgment debtor and for performance of other duties
24 that the court may direct.
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