

Introduced: 2/4/81
Referred: Judiciary

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL (for
the Code Revision Commission)

1 IN THE HOUSE

2 HOUSE BILL NO. 74

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the rights of debtors and credi-
7 tors."

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

9 * Section 1. It is the intent of the legislature to modernize the proce-
10 dures for execution on a judgment and to afford to a judgment debtor adequate
11 protection of his personal property and income necessary to provide for his
12 own needs and the needs of his dependents while remaining independent of
13 further public assistance.

14 * Sec. 2. AS 09 is amended by adding a new chapter to read:

15 CHAPTER 38. ALASKA EXEMPTIONS ACT.

16 Sec. 09.38.010. HOMESTEAD EXEMPTION. (a) An individual is en-
17 titled to an exemption as a homestead of his interest in property in
18 this state used as the principal residence of that individual or his
19 dependents, but the value of the homestead exemption may not exceed
20 \$19,000.

21 (b) If property owned by the entirety or in common is used by one
22 or more individual owners or their dependents as their principal resi-
23 dence, each owner is entitled to a homestead exemption of his interest
24 in the property as provided in (a) of this section. The aggregate
25 value of multiple homestead exemptions allowable with respect to a
26 single living unit may not exceed \$28,000. If there are multiple
27 owners of property exempt as a homestead, the value of the exemption of
28 each individual owner may not exceed his pro rata portion of \$28,000.

29 (c) If property that includes a homestead is sold under an execu-

1 tion, the sale becomes effective upon confirmation by order of the
2 court. The court shall enter the order of confirmation unless, within
3 60 days after the sale, the individual repurchases the property under
4 this section or the court extends the time for confirmation upon the
5 filing of a timely motion by a party in interest. The individual may
6 repurchase property, including his homestead, at a sale on execution
7 before confirmation by paying into court the costs of the sale plus the
8 lesser of either (1) the difference between the highest bid and the
9 amount of the exemption in the property, or (2) the amount of the
10 creditor's claim. If the individual does not exercise his repurchase
11 right under this subsection, the clerk of the court shall first remit
12 an amount determined to be exempt to him from the proceeds of sale and
13 the balance less the cost of the sale to the creditor. For the purpose
14 of collecting an amount remaining unpaid on his judgment after repur-
15 chase of property by an individual under this subsection, the creditor
16 or his assignee may not make another levy on the property repurchased.

17 (d) Upon entry of the order of confirmation under (c) of this
18 section and expiration of the time period for repurchase, the clerk may
19 execute a deed to the property and when delivered it shall be sufficient
20 to convey all title of the individual in the premises sold to the pur-
21 chaser at the sale.

22 Sec. 09.38.015. PROPERTY EXEMPT WITHOUT LIMITATION. (a) An
23 individual is entitled to exemption of the following property:

- 24 (1) a burial plot for the individual and his family;
25 (2) health aids reasonably necessary to enable the individual
26 or a dependent to work or to sustain health;
27 (3) benefits paid or payable for medical, surgical, or hos-
28 pital care to the extent they are or will be used to pay for the care;
29 (4) an award under AS 18.67 (Violent Crimes Compensation

1 Board) or a crime victim's reparations Act of another jurisdiction;

2 (5) benefits paid or payable as a longevity bonus under
3 AS 47.45;

4 (6) compensation or benefits paid or payable and exempt
5 under federal law.

6 (b) Except as provided in AS 09.38.055, a person is entitled to
7 exemption of the following transferable business rights:

8 (1) liquor licenses granted under AS 04;

9 (2) limited entry permits granted under AS 16.43.

10 (c) The right to benefits held by the state on behalf of an indi-
11 vidual which may become payable by reason of disability, unemployment
12 or illness, amounts held in the teachers' or public employees' retire-
13 ment system, and child support collections made by the child support
14 enforcement agency are exempt.

15 (d) Property of the state, a general law or home rule munici-
16 pality, the Alaska State Housing Authority, the Alaska Municipal Bond
17 Bank Authority, or other state public corporation is exempt.

18 (e) Real property held by a cemetery association established
19 under AS 10.30 for the purpose of a cemetery and not exceeding 80 acres
20 is exempt.

21 Sec. 09.38.020. EXEMPTIONS OF PERSONAL PROPERTY SUBJECT TO VALUE
22 LIMITATIONS. (a) An individual is entitled to an exemption in property
23 not to exceed an aggregate value of \$1,500 chosen by him from the fol-
24 lowing categories of property:

25 (1) household goods and wearing apparel reasonably necessary
26 for one household;

27 (2) if reasonably held for the personal use of the individual
28 or a dependent, books and musical instruments; and

29 (3) family portraits and heirlooms of particular sentimental

1 value to the individual.

2 (b) An individual is entitled to exemption of jewelry, not ex-
3 ceeding \$500 in aggregate value, if held for the personal use of the
4 individual or a dependent.

5 (c) An individual is entitled to exemption, not exceeding \$1,000
6 in aggregate value, of implements, professional books, and tools of the
7 trade.

8 (d) An individual is entitled to the exemption of pets to the
9 extent of a value not exceeding \$3,000.

10 (e) An individual is entitled to an exemption of one motor vehicle
11 to the extent of a value not exceeding \$1,500 if the full value of the
12 motor vehicle does not exceed \$10,000.

13 Sec. 09.38.025. EXEMPTION OF UNMATURED LIFE INSURANCE AND ANNUITY
14 CONTRACTS. (a) Except as provided in this section, an individual is
15 entitled to exemption of unmatured life insurance and annuity contracts
16 owned by him. If the contracts have accrued dividends and loan values
17 available to the individual aggregating more than \$5,000, a creditor
18 may obtain a court order requiring the individual debtor to pay the
19 creditor, and authorizing the creditor on the debtor's behalf to obtain
20 payment of, the amount of the accrued dividends and loan values in
21 excess of \$5,000 or the amount of the creditor's claim, whichever is
22 less.

23 (b) A judgment creditor or other claimant of an insurer may not
24 levy upon any of the assets or securities held in this state as a de-
25 posit for the protection of the insurer's policyholders or policyholders
26 and creditors. Deposits under AS 21.09.270 may be levied upon if pro-
27 vided in the order of the director of insurance, Department of Commerce
28 and Economic Development, under which the deposit is made.

29 Sec. 09.38.030. EXEMPTION OF EARNINGS AND LIQUID ASSETS. (a)

1 Except as provided in (b) and (c) of this section and AS 09.38.050, an
2 individual debtor is entitled to an exemption of his weekly net earnings
3 not to exceed \$125. The weekly net earnings of an individual are
4 determined by subtracting from the weekly gross earnings all sums
5 required by law or court order to be withheld. The weekly net earnings
6 of an individual paid on a monthly basis are determined by subtracting
7 from the monthly gross earnings of the individual all sums required by
8 law or court order to be withheld and dividing the remainder by 4.3.
9 The weekly net earnings of an individual paid on a semi-monthly basis
10 are determined by subtracting from the semi-monthly gross earnings all
11 sums required by law or court order to be withheld and dividing the
12 remainder by 2.17.

13 (b) An individual who does not receive earnings either weekly,
14 semi-monthly or monthly is entitled to a maximum exemption for the
15 aggregate value of cash and other liquid assets available in any month
16 of \$500, except as provided in AS 09.38.050. The term "liquid assets"
17 includes deposits, securities, notes, drafts, accrued vacation pay,
18 refunds, prepayments, and receivables.

19 (c) A creditor may levy upon earnings exempt under (a) and (b) of
20 this section if his claim is

21 (1) enforceable against exempt property under AS 09.38.-
22 065(a)(1); or

23 (2) enforceable under an order of a court of bankruptcy
24 under chapter XIII of the Bankruptcy Act (11 U.S.C., sec. 1001 et
25 seq.).

26 (d) If the individual debtor is a nonresident, the limitations on
27 garnishment imposed under 15 U.S.C. 1673 shall apply.

28 (e) The following property, unless exempt without limitation
29 under AS 09.38.015, upon receipt by and while it is in the possession

1 of the individual, shall be treated as earnings, income, cash, or other
2 liquid assets under this section:

3 (1) benefits paid by reason of disability, illness, or unem-
4 ployment;

5 (2) money or property received for alimony, support, or
6 separate maintenance;

7 (3) proceeds of insurance, a judgment, or a settlement, or
8 other rights accruing as a result of bodily injury of the individual or
9 of the wrongful death or bodily injury of another individual of whom
10 the individual was or is a dependent;

11 (4) proceeds or benefits paid or payable on the death of an
12 insured, if the individual was the spouse or a dependent of the insured;
13 and

14 (5) amounts paid under a stock bonus, pension, profit-
15 sharing, annuity, or similar plan or contract, providing benefits by
16 reason of age, illness, disability, or length of service.

17 Sec 09.38.035. CONTINUING LIEN ON WAGES. (a) In the case of a
18 garnishment of earnings, when the garnishee's answer reflects that the
19 defendant is employed by him, the judgment or balance due as reflected
20 on the writ of garnishment shall become a lien on earnings due at the
21 time of service of the writ to the extent that they are not exempt from
22 garnishment, and that lien shall continue as to subsequent nonexempt
23 earnings until the total subject to the lien equals the amount stated
24 on the writ of garnishment, except that the lien on subsequent earnings
25 shall terminate sooner if the employment relationship is terminated, if
26 the underlying judgment is vacated, modified, or satisfied in full, or
27 if the writ is dismissed.

28 (b) A garnishee shall pay into court all nonexempt earnings of
29 the defendant subject to the continuing lien under (a) of this section.

1 Accrued interest on the judgment or balance due as reflected on the
2 writ of attachment may be garnished under a supplemental writ of
3 garnishment after the principal amount stated on the original writ of
4 garnishment has been paid.

5 Sec. 09.38.040. PRIORITIES BETWEEN CONTINUING LIENS. A lien
6 obtained under AS 09.38.035 shall have priority over any subsequent
7 garnishment lien or wage assignment. Any writ creating a continuing
8 lien served upon an employer while a continuing lien imposed by a pre-
9 vious writ is still in effect shall be answered by the employer with a
10 statement that he is holding no funds and with a further statement
11 stating when all previous liens are expected to terminate. The subse-
12 quent writ shall have full effect from the termination of all prior
13 liens or until it is otherwise terminated under AS 09.38.035; however,
14 a subsequent writ is not effective if a writ in the same cause of
15 action is pending at the time of service of garnishment.

16 Sec. 09.38.045. EFFECTIVE DATE OF CONTINUING LIEN. The effective
17 date of a writ creating a continuing lien is the date of service upon
18 the garnishee; however, if there are, on that date, liens by virtue of
19 previous writs, the effective date is the date all previous writs
20 terminate.

21 Sec. 09.38.050. INCREASED EXEMPTION AMOUNT. (a) An individual
22 debtor who is in possession of money which was obtained as payment for
23 an injury or disability may request the court to order an increase in
24 the exemption amounts under AS 09.38.030. The individual debtor shall
25 submit affidavits or offer testimony in support of his request as re-
26 quired by the court. The court shall determine the exemption amount
27 after consideration of the individual's responsibilities and all the
28 present and anticipated property and income of the individual, including
29 that which is exempt.

1 (b) The exemption amounts under AS 09.38.030 may be increased
2 when the individual submits an affidavit, under penalty of perjury,
3 stating that his earnings alone support his household; by so doing, the
4 maximum part of his aggregate disposable earnings for any week subject
5 to execution may not exceed the amount by which his disposable earnings
6 for that week exceed \$200, or, if the individual is claiming an exemp-
7 tion for cash or other liquid assets under AS 09.38.030(b), a maximum
8 amount of \$800 available in any month is exempt.

9 Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under
10 the Bankruptcy Act (11 U.S.C.) only the exemptions under AS 09.38.010,
11 09.38.015(a), 09.38.020, 09.38.025 and 09.38.030 apply. The exemption
12 of certain permits, licenses, and certificates provided in AS 09.38.-
13 015(b) does not apply in a proceeding under chapter VII of the Bank-
14 ruptcy Act (11 U.S.C.).

15 Sec. 09.38.060. TRACING EXEMPT PROPERTY. (a) If property, or a
16 part of it, that could have been claimed as an exempt homestead under
17 AS 09.38.010, a burial plot under AS 09.38.015(a)(1), a health aid
18 under AS 09.38.015(a)(2), or personal property subject to a value
19 limitation under AS 09.38.020(a)(1), (2) or 09.38.020(c), has been
20 taken or sold by condemnation, or has been lost, damaged, or destroyed
21 and the owner has been indemnified for it, the individual is entitled
22 to an exemption of proceeds that are traceable for 12 months after the
23 proceeds are received. An individual is entitled to an exemption of
24 proceeds from the voluntary sale of an exempt homestead under AS 09.38.-
25 010 that are traceable for three months after the proceeds are received.
26 The exemption of proceeds under this subsection does not entitle the
27 individual to claim an aggregate exemption in excess of the value
28 limitation otherwise allowable under AS 09.38.010 or 09.38.020.

29 (b) Money or other property and proceeds exempt under this chapter

1 are traceable under this section by application of the principle of
2 first-in first-out, last-in first-out, or any other reasonable basis
3 for tracing selected by the individual claiming the exemption.

4 Sec. 09.38.065. CLAIMS ENFORCEABLE AGAINST EXEMPT PROPERTY. (a)

5 Notwithstanding other provisions of this chapter,

6 (1) a creditor may make a levy against exempt property of
7 any kind to enforce a claim for

8 (A) alimony, support, or separate maintenance;

9 (B) unpaid earnings of up to one month's compensation
10 or the full-time equivalent of one month's compensation for per-
11 sonal services of an employee; or

12 (C) state or local taxes; and

13 (2) a creditor may make a levy against exempt property to
14 enforce a claim for

15 (A) the purchase price of the property or a loan made
16 for the express purpose of enabling an individual to purchase the prop-
17 erty and used for that purpose;

18 (B) labor or materials furnished to make, repair,
19 improve, preserve, store, or transport the property; and

20 (C) a special assessment imposed to defray costs of a
21 public improvement benefiting the property.

22 (b) Except as provided in AS 09.38.070, limiting the enforcement
23 of certain security interests, this chapter does not affect any statu-
24 tory lien or security interest in exempt property.

25 (c) A creditor having a claim enforceable under (a) of this
26 section against exempt property, before, at the time of, or a reasonable
27 time after making a levy on property of an individual, shall serve on
28 the individual a notice of the levy and of the basis for the creditor's
29 right to make a levy on exempt property.

1 Sec. 09.38.070. LIMITATION ON ENFORCEMENT OF CERTAIN SECURITY
2 INTERESTS IN EXEMPT GOODS. (a) This section applies to a security
3 interest, except a purchase-money security interest, or a security
4 interest in a motor vehicle, in an item of goods (1) possessed by an
5 individual, (2) being used by him or a dependent, and (3) exempt under
6 AS 09.38.020(a) - 09.38.020(d).

7 (b) Unless the individual, after written notice to him of his
8 rights under this section, voluntarily surrenders to the secured credi-
9 tor possession of an item of goods to which this section applies, the
10 creditor may not take possession of the item or otherwise enforce the
11 security interest according to its terms without an order or process of
12 court.

13 (c) The court may order or authorize process respecting any item
14 of goods to which this section applies only after a hearing, upon
15 notice to the individual of the hearing and of his rights at it. The
16 notice shall be as directed by the court. The order or authorization
17 may prescribe appropriate conditions as to payments upon the debt
18 secured or otherwise. The court may not order or authorize process
19 respecting the item if it finds upon the hearing both that the indivi-
20 dual lacks the means to pay all or part of the debt secured and that
21 continued possession or use of the item is necessary to avoid undue
22 hardship for the individual or a dependent.

23 (d) The court, upon application of the creditor or the individual
24 and notice to the other and after a hearing and finding of changed
25 circumstances, may vacate or modify an order or authorization under
26 this section.

27 Sec. 09.38.075. SPECIAL PROCEDURES RELATING TO LIMITED VALUE
28 EXEMPTIONS. (a) Unless he is seeking collection of a claim enforceable
29 against exempt property under AS 09.38.065, a creditor may obtain a

1 levy on an individual's property of a kind listed in AS 09.38.020 only
2 by complying with this section. Before levy, the creditor shall file
3 with the court out of which the process issues

4 (1) an affidavit stating that he has reason to believe the
5 individual has property of a kind listed in AS 09.38.020 that is not
6 exempt, identifying the property, setting out facts constituting the
7 basis for believing the property is not exempt; and

8 (2) a request for an order by the court notifying the indi-
9 vidual

10 (A) of the creditor's claim of a right to levy on the
11 property identified as nonexempt,

12 (B) of the individual's right to contest the creditor's
13 claim of a right to levy by filing with the clerk of the court, on
14 or before a date fixed by the court, but not exceeding 15 days
15 after the issuance of the order, a written objection to the pro-
16 posed levy and a statement of the grounds for the objection and of
17 his right to describe the property in lieu of setting its value,
18 and

19 (C) of the possible consequences of failure to respond
20 to the notice as provided in (c) of this section.

21 (b) Notice of an order issued in accordance with a request under
22 (a) of this section, together with the creditor's affidavit, shall be
23 served on the individual. The order shall restrain the individual from
24 removing, encumbering, damaging, or disposing of any property of the
25 kind listed in AS 09.38.020 for 30 days after receipt of the order,
26 unless the court reduces, extends, or otherwise modifies the restraining
27 order during the 30-day period.

28 (c) If exemption of property identified in a notice served on an
29 individual under (b) of this section depends on its value, the indi-

1 vidual may describe the property in his responsive statement and indi-
2 cate the amount of any indebtedness chargeable against it. If the
3 individual, within the time allowed by the order of the court, fails to
4 respond to a notice served under (b) of this section that the creditor
5 believes the debtor has nonexempt property of a kind listed under
6 AS 09.38.020, the court may order the individual to appear and disclose
7 the description, location, and value of his property. If the individual
8 fails to appear and disclose the information specified in the order, he
9 waives objection to the creditor's levy on property of that kind.

10 (d) Except to the extent the procedure is prescribed by this
11 section, AS 09.38.080(e) governs a proceeding for the determination of
12 a contest in respect to a claim to exemption of property under AS 09.-
13 38.020.

14 (e) Costs incurred in making, or proposing to make, a levy on
15 property of a kind listed in AS 09.38.020 shall be paid out of the
16 proceeds of a sale of property of that kind. If the proceeds of a sale
17 of the property are insufficient to cover the costs incurred in pro-
18 ceedings commenced under this section, the creditor shall pay the costs
19 and may not recover them from the individual, notwithstanding any
20 agreement of the parties to the contrary.

21 (f) The burden of proving the validity of an exemption by a pre-
22 ponderance of the evidence is upon the individual claiming the exemp-
23 tion.

24 Sec. 09.38.080. PROCEDURES APPLICABLE TO A LEVY ON PROPERTY OF AN
25 INDIVIDUAL. (a) Except in a proceeding under AS 09.38.065, a creditor
26 shall comply with this section in obtaining a levy on property of an
27 individual. In a proceeding to levy on personal property of a kind
28 listed in AS 09.38.020, a creditor shall comply with this section and
29 AS 09.38.075.

1 (b) Before, at the time of, or within three days after levy
2 against property of an individual, the creditor shall file with the
3 court from which the process issued an affidavit stating that he has
4 reason to believe the individual has property that is not exempt, iden-
5 tifying the property, and stating facts constituting the basis for that
6 belief.

7 (c) Before, at the time of, or within three days after levy, the
8 creditor shall serve on the individual a notice under AS 09.38.085,
9 including a copy of the affidavit filed under (b) of this section.

10 (d) A bid for property that is less than the amount of the exempt
11 value is not acceptable at a sale of property under a levy. If in-
12 debtedness secured by a valid lien is chargeable against the proceeds
13 of the sale, the bid must exceed the amount of the indebtedness secured
14 plus the amount of the exempt value. If a sufficient bid is not re-
15 ceived, the officer shall file a notation of the fact with the clerk of
16 the court and return the property to the individual. The costs incurred
17 during levy, offering the property for sale, and returning the property
18 shall be assessed against the creditor and are not recoverable from the
19 individual, notwithstanding any agreement of the parties to the con-
20 trary.

21 (e) If any question arises as to the rights of an individual
22 entitled to an exemption under this chapter, an interested person may
23 file with the clerk of the court from which the process issued a state-
24 ment of the claim of exemptions and the question raised. The statement
25 shall be referred to the court as soon as practicable thereafter. The
26 court shall order that notice of a hearing be given. After hearing the
27 matter, the court shall make findings and issue an appropriate order.
28 The court may award to the prevailing party costs of a proceeding under
29 this subsection.

1 (f) An objection to levy on the ground that the property seized
2 is exempt must be filed with the clerk of the court within 15 days
3 after the levy. The burden of proving the validity of an exemption by
4 a preponderance of the evidence is upon the individual claiming the
5 exemption. Failure to file a timely objection may be held to be a
6 waiver of a claim to exemption in the property, unless for cause shown
7 the court excuses the failure.

8 Sec. 09.38.085. CONTENTS OF NOTICE. (a) The notice required by
9 AS 09.38.080(c) shall include the following information:

10 (1) the amount and date of the judgment to be enforced by
11 levy and sale or other mode of appropriating the individual's property;

12 (2) the name and address of the clerk of the court with whom
13 objections must be filed;

14 (3) the name and address of the creditor and of his attorney,
15 if any;

16 (4) a copy of the affidavit filed under AS 09.38.080(b);

17 (5) a summary statement in lay terminology of the exemptions
18 provided by the laws of this state;

19 (6) a summary statement in lay terminology of the procedures
20 for claiming exemptions, objecting to a levy on exempt property, and
21 exercising the right to repurchase homestead property from a sale
22 before its confirmation; and

23 (7) a statement in lay terminology of the rights of persons
24 other than the individual as provided in AS 09.38.090.

25 (b) The supreme court may prescribe forms to be used by creditors,
26 debtors and court officers under this chapter. A notice substantially
27 complying with this section is effective even though the notice contains
28 errors if those errors do not result in substantial prejudice to the
29 rights of the individual debtor or his dependents.

1 Sec. 09.38.090. ASSERTION OF RIGHTS BY ANOTHER. If an individual
2 fails to select property entitled to be claimed as exempt or to object
3 to a levy on the property or to assert any other right under this chap-
4 ter, the spouse or a dependent of the individual or any other person
5 authorized by law may make the claim or objection or assert the rights
6 provided by this chapter.

7 Sec. 09.38.095. JUDICIAL RELIEF. (a) An individual or the
8 spouse, a dependent of the individual, or any other person authorized
9 by law is entitled to injunctive relief, damages, or both, against a
10 creditor or other person to prevent or redress a violation of this
11 chapter as provided in the Alaska Rules of Civil Procedure. A court
12 may award costs and reasonable attorney fees to a party entitled to
13 injunctive relief or damages.

14 (b) For cause shown the court may relieve a person from the
15 consequences of failing to take timely action to assert rights under
16 this chapter.

17 Sec. 09.38.100. DEBTOR'S PROPERTY OWNED WITH ANOTHER. (a) If an
18 individual and another own property in this state as tenants in common
19 or tenants by the entirety, a creditor of the individual, subject to
20 the individual's right to claim an exemption under this chapter, may
21 obtain a levy on and sale of the interest of the individual in the
22 property. A creditor who has obtained a levy, or a purchaser who has
23 purchased the individual's interest at the sale, may have the property
24 partitioned or the individual's interest severed.

25 (b) A partner's right in specific partnership property is exempt
26 except on a claim against the partnership; when partnership property is
27 attached for a partnership debt, the partners or any of them or the
28 representatives of a deceased partner may not claim an exemption for
29 that property under this chapter.

1 Sec. 09.38.105. WAIVER OF EXEMPTION. A waiver of exemption exe-
2 cuted in favor of an unsecured creditor before levy on an individual's
3 property is unenforceable, but a valid security interest may be given
4 in exempt property.

5 Sec. 09.38.110. FEDERAL REQUIREMENTS. If a federal department or
6 agency issues a formal ruling that a section of this chapter relating
7 to public assistance will cause a state plan for the delivery of ser-
8 vices or benefits to be out of conformity with federal requirements,
9 the section will not apply to the extent that it causes the program to
10 be out of conformity with federal requirements.

11 Sec. 09.38.115. ADJUSTMENT OF DOLLAR AMOUNTS. (a) The dollar
12 amounts in this chapter change, as provided in this section, according
13 to and to the extent of changes in the Consumer Price Index for the
14 Anchorage Metropolitan Area Consumer Price Index compiled by the Bureau
15 of Labor Statistics, United States Department of Labor (the index).
16 The index for November of the year preceding the year in which this
17 section becomes effective is the reference base index.

18 (b) The dollar amount change on July 1 of each even-numbered year
19 if the percentage of change, calculated to the nearest whole percentage
20 point, between the index for December of the preceding year and the
21 reference base index, is 10 percent or more, but

22 (1) the portion of the percentage change in the index in
23 excess of a multiple of 10 percent is disregarded and the dollar amounts
24 change only in multiples of 10 percent of the amounts appearing in this
25 chapter on the effective date of this chapter; and

26 (2) the dollar amounts do not change if the amounts required
27 by this section are those currently in effect as a result of earlier
28 application of this section.

29 (c) If the index is revised, the percentage of change is calcu-

1 lated on the basis of the revised index. If a revision of the index
2 changes the reference base index, a revised reference base index is
3 determined by multiplying the reference base index applicable by the
4 rebasing factor furnished by the United States Bureau of Labor Statis-
5 tics. If the index is superseded, the index referred to in this section
6 is the one represented by the Bureau of Labor Statistics as reflecting
7 most accurately changes in the purchasing power of the dollar for Alas-
8 kan consumers.

9 (d) The Department of Labor shall adopt a regulation announcing

10 (1) on or before April 30 of each year in which dollar
11 amounts are to change, the changes in dollar amounts required by (b) of
12 this section; and

13 (2) promptly after the changes occur, changes in the index
14 required by (c) of this section, including, if applicable, the numerical
15 equivalent of the reference base index under a revised reference base
16 index and the designation or title of any index superseding the index.

17 (e) The Department of Labor shall also provide notification of a
18 change in exemption amounts required under (c) of this section to the
19 clerks of court in each judicial district of the state.

20 Sec. 09.38.120. PROTECTION OF PROPERTY OF RESIDENTS AND NONRESI-
21 DENTS. (a) Residents of this state are entitled to the exemptions
22 provided under this chapter. Nonresidents are entitled to the exemp-
23 tions provided by the law of the jurisdiction of their residence.

24 (b) The term "resident" means an individual who is physically
25 present in the state and who intends to maintain his permanent home in
26 Alaska.

27 Sec. 09.38.125. DEFINITIONS. As used in this chapter, unless the
28 context otherwise requires,

29 (1) "burial plot" means a parcel of real estate used for

1 burial of human remains and which is located within an area designated
2 for cemetery purposes by the state or a general law or home rule munici-
3 pality;

4 (2) "debt" means a legally enforceable monetary obligation
5 or liability of an individual, whether arising out of contract, tort,
6 or otherwise;

7 (3) "dependent" means an individual who derives support
8 primarily from another individual;

9 (4) "earnings" means money received by the individual for
10 personal services and denominated as wages, salary, commissions, or
11 otherwise;

12 (5) "exempt" means protected, and "exemption" means pro-
13 tection, from subjection to process or a proceeding to collect an unse-
14 cured debt;

15 (6) "household goods" includes those items that make a resi-
16 dence habitable according to modern standards;

17 (7) "judicial lien" means a lien on property obtained by
18 judgment, levy, sequestration, or other legal or equitable process or
19 proceeding instituted for the purpose of collecting an unsecured debt;

20 (8) "levy" means the seizure of property under a writ of
21 attachment, garnishment, execution, or any similar legal or equitable
22 process issued for the purpose of collecting an unsecured debt;

23 (9) "lien" means a security interest, or a judicial,
24 statutory, or common-law lien, or any other interest in property secur-
25 ing payment of a debt or performance of an obligation;

26 (10) "principal residence" means the actual dwelling place of
27 the individual or his dependents and includes real and personal prop-
28 erty;

29 (11) "security interest" means an interest in property created

1 by contract to secure payment or performance of an obligation;

2 (12) "serve notice" means to give the person to be served a
3 written personal notice in the same manner a summons in a civil action
4 is served, or to mail the notice to the person's last known address by
5 first-class mail and by using a form of mail requiring a signed receipt;

6 (13) "statutory lien" means a lien arising by force of a
7 statute under specified circumstances or conditions, but does not in-
8 clude a security interest;

9 (14) "value" means fair market value of an individual's
10 interest in property, exclusive of liens of record;

11 (15) "wearing apparel" means clothing and garments intended
12 and adapted to be worn on the person to protect the person against the
13 elements or to provide personal comfort or decency, or serving to orna-
14 ment the person but does not include jewelry.

15 Sec. 09.38.130. SHORT TITLE. This chapter may be cited as the
16 Alaska Exemptions Act.

17 * Sec. 3. AS 14.25.200 is amended to read:

18 Sec. 14.25.200. EXEMPTION FROM TAXATION AND PROCESS. (a) Bene-
19 fits and other amounts held in the retirement fund on behalf of the
20 members are exempt from Alaska state and municipal taxes and are not
21 subject to anticipation, alienation, sale, transfer, assignment, pledge,
22 encumbrance, or charge [, GARNISHMENT, EXECUTION OR LEVY] of any kind,
23 either voluntary or involuntary, before they are received by the person
24 entitled to the amount under the terms of the system, and any attempt
25 to anticipate, alienate, sell, transfer, assign, pledge, encumber,
26 charge, or otherwise dispose of any right to amounts accrued in the
27 retirement fund is void.

28 (b) Teachers' retirement salaries and other amounts held in the
29 retirement fund on behalf of the members are exempt from garnishment,

1 execution or levy as provided in AS 09.38 (exemptions). 1

2 * Sec. 4. AS 23.20.405 is amended by adding a new subsection to read:

3 (e) Benefits paid or payable under this chapter are exempt from
4 levy to enforce the collection of a debt as provided in AS 09.38 (exemp-
5 tions).

6 * Sec. 5. AS 23.30.160 is amended to read:

7 Sec. 23.30.160. ASSIGNMENT AND EXEMPTION FROM CLAIMS OF CREDITORS.

8 (a) No assignment, release, or commutation of compensation or benefits
9 due or payable under this chapter, except as provided by this chapter,
10 is valid [, AND THE COMPENSATION AND BENEFITS ARE EXEMPT FROM ALL
11 CLAIMS OF CREDITORS AND FROM LEVY, EXECUTION, AND ATTACHMENT OR OTHER
12 REMEDY FOR RECOVERY OR COLLECTION OF A DEBT]. This exemption may not
13 be waived.

14 (b) Benefits payable under this chapter are exempt from levy to
15 enforce the collection of a debt as provided in AS 09.38 (exemptions).

16 * Sec. 6. AS 34.15.140(b) is repealed and reenacted to read:

17 (b) A homestead held by tenants by the entirety is exempt from
18 execution on a debt to the value specified under AS 09.38.010(b) and
19 may be liable for the debts of either tenant after partition of the
20 tenancy under AS 09.38.100.

21 * Sec. 7. AS 39.35.500 is amended to read:

22 Sec. 39.35.500. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE SYSTEM.

23 (a) Employee contributions and other amounts held in the pension fund
24 are exempt from Alaska state and local taxes. Amounts held on behalf
25 of, or payable to, any employee or other person who is or may become
26 eligible for benefits under the system are not subject to anticipation,
27 alienation, sale, transfer, assignment, pledge, encumbrance, or charge
28 [, GARNISHMENT, EXECUTION, OR LEVY] of any kind, either voluntary or
29 involuntary, before being received by the person entitled to the amount

1 under the terms of the system. An attempt to anticipate, alienate,
2 sell, transfer, assign, pledge, encumber, charge, or otherwise dispose
3 of a right to amounts held under the system is void.

4 (b) Employee contributions and other amounts held in the pension
5 fund and retirement benefits payable under this chapter are exempt from
6 levy to enforce the collection of a debt as provided in AS 09.38 (exemp-
7 tions).

8 * Sec. 8. AS 47.25.210 is amended to read:

9 Sec. 47.25.210. ALIENATION AND ATTACHMENT. Assistance granted
10 under AS 47.25.120 - 47.25.300 is inalienable by assignment or transfer
11 and is exempt from garnishment, levy, or execution as provided in
12 AS 09.38 (exemptions) [UNDER THE LAWS OF THIS STATE].

13 * Sec. 9. AS 47.25.395 is amended to read:

14 Sec. 47.25.395. ALIENATION AND ATTACHMENT. Assistance granted
15 under AS 47.25.310 - 47.25.420 is inalienable by assignment or transfer
16 and is exempt from garnishment, levy, or execution as provided in
17 AS 09.38 (exemptions) [UNDER THE LAWS OF THIS STATE].

18 * Sec. 10. AS 47.25.550 is amended to read:

19 Sec. 47.25.550. ALIENATION AND ATTACHMENT. Assistance granted
20 under AS 47.25.430 - 47.25.610 is inalienable by an assignment or
21 transfer and is exempt from garnishment, levy, or execution as provided
22 in AS 09.38 (exemptions) [UNDER THE LAWS OF THIS STATE].

23 * Sec. 11. AS 47.25.710 is amended to read:

24 Sec. 47.25.710. ALIENATION AND ATTACHMENT. Assistance granted
25 under AS 47.25.620 - 47.25.780 is inalienable by assignment or transfer
26 and is exempt from garnishment, levy, or execution as provided in
27 AS 09.38 (exemptions) [UNDER THE LAWS OF THE STATE].

28 * Sec. 12. AS 47.25.880 is amended to read:

29 Sec. 47.25.880. ALIENATION AND ATTACHMENT. Assistance granted

1 under AS 47.25.790 - 47.25.970 is inalienable by assignment or transfer
2 and is exempt from garnishment, levy, or execution as provided in
3 AS 09.38 (exemptions) [UNDER THE LAWS OF THIS STATE].

4 * Sec. 13. AS 47.45.120 is amended to read:

5 Sec. 47.45.120. EXEMPTION FROM TAXATION AND PROCESS. (a) Bonuses
6 received under this chapter are exempt from all state and political
7 subdivision taxes except sales and use taxes [AND ARE NOT SUBJECT TO
8 EXECUTION, ATTACHMENT, GARNISHMENT OR OTHER PROCESS]. No bonus received
9 under this chapter may be exempt from a federal tax requirement.

10 (b) Bonuses received under this chapter are exempt from levy to
11 enforce the collection of a debt as provided in AS 09.38 (exemptions).

12 * Sec. 14. AS 09.35.035, 09.35.040, 09.35.050, 09.35.080 - 09.35.090,
13 09.35.120; AS 21.24.110; AS 21.42.320 - 21.42.350; AS 23.20.405(b) and (c);
14 and AS 32.05.200(b)(3) are repealed.

15 * Sec. 15. All writs of execution, claims of exemption, sales, confirma-
16 tions of sales, rights of redemption and priorities of redemption issued or
17 filed under any law repealed by this Act and in full force and effect on the
18 effective date of this Act, shall remain in full force and effect for the
19 term issued or until revoked, vacated, or modified under the provisions of
20 this Act.