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1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 74 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND 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 \$27,000.

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 \$40,000. 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 \$40,000.

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 (7) liquor licenses granted under AS 04;

7 (8) limited entry permits granted under AS 16.43, except as  
8 provided in that chapter.

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

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

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

20 Sec. 09.38.020. EXEMPTIONS OF PERSONAL PROPERTY SUBJECT TO VALUE  
21 LIMITATIONS. (a) An individual is entitled to an exemption in property  
22 not to exceed an aggregate value of \$2,000 chosen by him from the fol-  
23 lowing categories of property:

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

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

28 (3) family portraits and heirlooms of particular sentimental  
29 value to the individual.

1 (b) An individual is entitled to exemption of jewelry, not ex-  
2 ceeding \$700 in aggregate value, if held for the personal use of the  
3 individual or a dependent.

4 (c) An individual is entitled to exemption, not exceeding \$1,400  
5 in aggregate value, of implements, professional books, and tools of the  
6 trade.

7 (d) An individual is entitled to the exemption of pets to the  
8 extent of a value not exceeding \$4,300.

9 (e) An individual is entitled to an exemption of one motor vehicle  
10 to the extent of a value not exceeding \$2,100 if the full value of the  
11 motor vehicle does not exceed \$14,500.

12 Sec. 09.38.025. EXEMPTION OF UNMATURED LIFE INSURANCE AND ANNUITY  
13 CONTRACTS. (a) Except as provided in this section, an individual is  
14 entitled to exemption of unmatured life insurance and annuity contracts  
15 owned by him. If the contracts have accrued dividends and loan values  
16 available to the individual aggregating more than \$7,200, a creditor  
17 may obtain a court order requiring the individual debtor to pay the  
18 creditor, and authorizing the creditor on the debtor's behalf to obtain  
19 payment of, the amount of the accrued dividends and loan values in  
20 excess of \$7,200 or the amount of the creditor's claim, whichever is  
21 less.

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

28 Sec. 09.38.030. EXEMPTION OF EARNINGS AND LIQUID ASSETS. (a)  
29 Except as provided in (b) and (c) of this section and AS 09.38.050, an

1 individual debtor is entitled to an exemption of his weekly net earnings  
2 not to exceed \$175. The weekly net earnings of an individual are  
3 determined by subtracting from the weekly gross earnings all sums  
4 required by law or court order to be withheld. The weekly net earnings  
5 of an individual paid on a monthly basis are determined by subtracting  
6 from the monthly gross earnings of the individual all sums required by  
7 law or court order to be withheld and dividing the remainder by 4.3.  
8 The weekly net earnings of an individual paid on a semi-monthly basis  
9 are determined by subtracting from the semi-monthly gross earnings all  
10 sums required by law or court order to be withheld and dividing the  
11 remainder by 2.17.

12 (b) An individual who does not receive earnings either weekly,  
13 semi-monthly or monthly is entitled to a maximum exemption for the  
14 aggregate value of cash and other liquid assets available in any month  
15 of \$700, except as provided in AS 09.38.050. The term "liquid assets"  
16 includes deposits, securities, notes, drafts, accrued vacation pay,  
17 refunds, prepayments, and receivables.

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

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

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

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

27 (e) The following property, unless exempt without limitation  
28 under AS 09.38.015, upon receipt by and while it is in the possession  
29 of the individual, shall be treated as earnings, income, cash, or other

1 liquid assets under this section:

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

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

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

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

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

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

27 (b) A garnishee shall pay into court all nonexempt earnings of  
28 the defendant subject to the continuing lien under (a) of this section.  
29 Accrued interest on the judgment or balance due as reflected on the

1 writ of attachment may be garnished under a supplemental writ of  
2 garnishment after the principal amount stated on the original writ of  
3 garnishment has been paid.

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

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

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

29 (b) The exemption amounts under AS 09.38.030 may be increased

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

8 Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under  
9 the Bankruptcy Act (11 U.S.C.) only the exemptions under AS 09.38.010,  
10 09.38.015(a), 09.38.020, 09.38.025 and 09.38.030 apply.

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

25 (b) Money or other property and proceeds exempt under this chapter  
26 are traceable under this section by application of the principle of  
27 first-in first-out, last-in first-out, or any other reasonable basis  
28 for tracing selected by the individual claiming the exemption.

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

1 Notwithstanding other provisions of this chapter,

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

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

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

8 (C) state or local taxes; and

9 (2) a creditor may make a levy against exempt property to  
10 enforce a claim for

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

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

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

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

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

26 Sec. 09.38.070. LIMITATION ON ENFORCEMENT OF CERTAIN SECURITY  
27 INTERESTS IN EXEMPT GOODS. (a) This section applies to a security  
28 interest, except a purchase-money security interest, or a security  
29 interest in a motor vehicle, in an item of goods (1) possessed by an

1 individual, (2) being used by him or a dependent, and (3) exempt under  
2 AS 09.38.020(a) - (d).

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

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

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

23 Sec. 09.38.075. SPECIAL PROCEDURES RELATING TO LIMITED VALUE  
24 EXEMPTIONS. (a) Unless he is seeking collection of a claim enforceable  
25 against exempt property under AS 09.38.065, a creditor may obtain a  
26 levy on an individual's property of a kind listed in AS 09.38.020 only  
27 by complying with this section. Before levy, the creditor shall file  
28 with the court out of which the process issues

29 (1) an affidavit stating that he has reason to believe the

1 individual has property of a kind listed in AS 09.38.020 that is not  
2 exempt, identifying the property, setting out facts constituting the  
3 basis for believing the property is not exempt; and

4 (2) a request for an order by the court notifying the indi-  
5 vidual

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

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

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

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

24 (c) If exemption of property identified in a notice served on an  
25 individual under (b) of this section depends on its value, the indi-  
26 vidual may describe the property in his responsive statement and indi-  
27 cate the amount of any indebtedness chargeable against it. If the  
28 individual, within the time allowed by the order of the court, fails to  
29 respond to a notice served under (b) of this section that the creditor

1 believes the debtor has nonexempt property of a kind listed under  
2 AS 09.38.020, the court may order the individual to appear and disclose  
3 the description, location, and value of his property. If the individual  
4 fails to appear and disclose the information specified in the order, he  
5 waives objection to the creditor's levy on property of that kind.

6 (d) Except to the extent the procedure is prescribed by this  
7 section, AS 09.38.080(e) governs a proceeding for the determination of  
8 a contest in respect to a claim to exemption of property under AS 09.-  
9 38.020.

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

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

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

26 (b) Before, at the time of, or within three days after levy  
27 against property of an individual, the creditor shall file with the  
28 court from which the process issued an affidavit stating that he has  
29 reason to believe the individual has property that is not exempt, iden-

1 tifying the property, and stating facts constituting the basis for that  
2 belief.

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

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

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

26 (f) An objection to levy on the ground that the property seized  
27 is exempt must be filed with the clerk of the court within 15 days  
28 after the levy. The burden of proving the validity of an exemption by  
29 a preponderance of the evidence is upon the individual claiming the

1 exemption. Failure to file a timely objection may be held to be a  
2 waiver of a claim to exemption in the property, unless for cause shown  
3 the court excuses the failure.

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

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

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

10 (3) the name and address of the creditor and of his attorney,  
11 if any;

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

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

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

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

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

26 Sec. 09.38.090. ASSERTION OF RIGHTS BY ANOTHER. If an individual  
27 fails to select property entitled to be claimed as exempt or to object  
28 to a levy on the property or to assert any other right under this chap-  
29 ter, the spouse or a dependent of the individual or any other person

1 authorized by law may make the claim or objection or assert the rights  
2 provided by this chapter.

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

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

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

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

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

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

7           Sec. 09.38.115. ADJUSTMENT OF DOLLAR AMOUNTS. (a) The dollar  
8 amounts in this chapter change, as provided in this section, according  
9 to and to the extent of changes in the Consumer Price Index for all  
10 Urban Consumers for the Anchorage Metropolitan Area compiled by the  
11 Bureau of Labor Statistics, United States Department of Labor (the  
12 index). The index for January of the year in which this section becomes  
13 effective is the reference base index.

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

18           (1) the portion of the percentage change in the index in  
19 excess of a multiple of 10 percent is disregarded and the dollar amounts  
20 change only in multiples of 10 percent of the amounts appearing in this  
21 chapter on the effective date of this chapter; and

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

25           (c) If the index is revised, the percentage of change is calcu-  
26 lated on the basis of the revised index. If a revision of the index  
27 changes the reference base index, a revised reference base index is  
28 determined by multiplying the reference base index applicable by the  
29 rebasing factor furnished by the United States Bureau of Labor Statis-

1 tics. If the index is superseded, the index referred to in this section  
2 is the one represented by the Bureau of Labor Statistics as reflecting  
3 most accurately changes in the purchasing power of the dollar for Alas-  
4 kan consumers.

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

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

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

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

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

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

23 Sec. 09.38.125. DEFINITIONS. As used in this chapter, unless the  
24 context otherwise requires,

25 (1) "burial plot" means a parcel of real estate used for  
26 burial of human remains and which is located within an area designated  
27 for cemetery purposes by the state or a general law or home rule munici-  
28 pality;

29 (2) "debt" means a legally enforceable monetary obligation

1 or liability of an individual, whether arising out of contract, tort,  
2 or otherwise;

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

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

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

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

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

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

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

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

25 (11) "security interest" means an interest in property created  
26 by contract to secure payment or performance of an obligation;

27 (12) "serve notice" means to give the person to be served a  
28 written personal notice in the same manner a summons in a civil action  
29 is served, or to mail the notice to the person's last known address by

1 first-class mail and by using a form of mail requiring a signed receipt;

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

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

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

11 Sec. 09.38.130. SHORT TITLE. This chapter may be cited as the  
12 Alaska Exemptions Act.

13 \* Sec. 3. AS 14.25.200 is amended to read:

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

24 (b) Teachers' retirement salaries and other amounts held in the  
25 retirement fund on behalf of the members are exempt from garnishment,  
26 execution or levy as provided in AS 09.38 (exemptions).

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

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

1 tions).

2 \* Sec. 5. AS 23.30.160 is amended to read:

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

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

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

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

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

17 \* Sec. 7. AS 39.35.500 is amended to read:

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

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

29 (b) Employee contributions and other amounts held in the pension

1 fund and retirement benefits payable under this chapter are exempt from  
2 levy to enforce the collection of a debt as provided in AS 09.38 (exemp-  
3 tions).

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

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

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

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

14 \* Sec. 10. AS 47.25.550 is amended to read:

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

19 \* Sec. 11. AS 47.25.710 is amended to read:

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

24 \* Sec. 12. AS 47.25.880 is amended to read:

25 Sec. 47.25.880. ALIENATION AND ATTACHMENT. Assistance granted  
26 under AS 47.25.790 - 47.25.970 is inalienable by assignment or transfer  
27 and is exempt from garnishment, levy, or execution as provided in  
28 AS 09.38 (exemptions) [UNDER THE LAWS OF THIS STATE].

29 \* Sec. 13. AS 47.45.120 is amended to read:

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

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

8       \* Sec. 14. AS 09.35.035, 09.35.040, 09.35.050, 09.35.080 - 09.35.090,  
9 09.35.120; AS 21.24.110; AS 21.42.320 - 21.42.340, 21.42.350; AS 23.20.405(b)  
10 and (c); and AS 32.05.200(b)(3) are repealed.

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