

Original sponsor: Rules/Legislative Council

Offered: 4/7/82
For Calendar 4/8/82

1 IN THE HOUSE

BY THE RULES COMMITTEE

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CS FOR HOUSE BILL NO. 74 (Rules) am

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to the rights of debtors and creditors."

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

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

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

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CHAPTER 38. ALASKA EXEMPTIONS ACT.

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Sec. 09.38.010. HOMESTEAD EXEMPTION. (a) An individual is entitled to an exemption as a homestead of his interest in property in this state used as the principal residence of that individual or his dependents, but the value of the homestead exemption may not exceed \$27,000.

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

(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 \$1,500 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 \$500 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 \$500.

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

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 \$5,000, 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 \$5,000 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 or separate
5 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 \$275, 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 \$1,100 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 six 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) child support;

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
13 property 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
5 individual

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

16 (D) of the information required by AS 09.38.085(a).

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 09.38.075(b) and 09.38.080(c) shall include the following informa-
6 tion:

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

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

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

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

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

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

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

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

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

1 ter, the spouse or a dependent of the individual or any other person
2 authorized by law may make the claim or objection or assert the rights
3 provided by this chapter.

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

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

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

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

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

1 in exempt property.

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

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

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

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

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

26 (c) If the index is revised, the percentage of change is calcu-
27 lated on the basis of the revised index. If a revision of the index
28 changes the reference base index, a revised reference base index is
29 determined by multiplying the reference base index applicable by the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (12) "serve notice" means to give the person to be served a
29 written personal notice in the same manner a summons in a civil action

1 is served, or to mail the notice to the person's last known address by
2 first-class mail and by using a form of mail requiring a signed receipt;

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

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

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

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

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

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

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

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

29 (e) Benefits paid or payable under this chapter are exempt from

1 levy to enforce the collection of a debt as provided in AS 09.38 (exemp-
2 tions).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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