

Offered: 5/25/83
Referred: Rules

Original sponsor: Bussell

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

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CS FOR HOUSE BILL NO. 326 (Judiciary)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - FIRST SESSION

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A BILL

6 For an Act entitled: "An Act amending and repealing provisions of the

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Alaska Exemption Act."

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

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* Section 1. AS 09.38.030(e) is amended to read:

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(e) The following property, unless exempt without limitation

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under AS 09.38.015 [, UPON RECEIPT BY AND WHILE IT IS IN THE POS-

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SESSION OF THE INDIVIDUAL,] shall be treated as earnings [, INCOME,

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CASH, OR OTHER LIQUID ASSETS UNDER THIS SECTION]:

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(1) benefits paid by reason of disability, illness, or

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unemployment;

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(2) money or property received for alimony or separate

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maintenance;

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(3) proceeds of insurance, a judgment, or a settlement, or

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other rights accruing as a result of bodily injury of the individual

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or of the wrongful death or bodily injury of another individual of

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whom the individual was or is a dependent;

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(4) proceeds or benefits paid or payable on the death of an

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insured, if the individual was the spouse or a dependent of the in-

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sured; and

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(5) amounts paid under a stock bonus, pension, profit-

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sharing, annuity, or similar plan or contract, providing benefits by

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reason of age, illness, disability, or length of service.

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* Sec. 2. AS 09.38.060(a) is amended to read:

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(a) If property, or a part of it, that could have been claimed

1 as an exempt homestead under AS 09.38.010, a burial plot under AS 09.-
2 38.015(a)(1), a health aid under AS 09.38.015(a)(2), or personal
3 property subject to a value limitation under AS 09.38.020(a)(1), (2)
4 or 09.38.020(c), has been taken or sold by condemnation, or has been
5 lost, damaged, or destroyed and the owner has been indemnified for it,
6 the individual is entitled to an exemption of proceeds that are trace-
7 able for six [12] months after the proceeds are received. An indi-
8 vidual is entitled to an exemption of proceeds from the voluntary sale
9 of an exempt homestead under AS 09.38.010 that are traceable for three
10 [SIX] months after the proceeds are received. The exemption of pro-
11 ceeds under this subsection does not entitle the individual to claim
12 an aggregate exemption in excess of the value limitation otherwise
13 allowable under AS 09.38.010 or 09.38.020.

14 * Sec. 3. AS 09.38.080(c) is amended to read:

15 (c) Before, at the time of, or within three days after levy, the
16 creditor shall serve on the individual a notice under AS 09.38.085 [,
17 INCLUDING A COPY OF THE AFFIDAVIT FILED UNDER (b) OF THIS SECTION].

18 * Sec. 4. AS 09.38.080(f) is amended to read:

19 (f) An objection to levy on the ground that the property seized
20 is exempt must be filed with the clerk of the court within 15 days
21 after the levy. The burden of proving the validity of an exemption by
22 a preponderance of the evidence is upon the individual claiming the
23 exemption. Failure to file a timely objection shall [MAY] be held to
24 be a waiver of a claim to exemption in the property, unless for cause
25 shown the court excuses the failure. Failure to file an objection
26 before sale shall be an absolute waiver of exemption rights.

27 * Sec. 5. AS 09.38.085(a) is amended to read:

28 (a) The notice required by AS [09.38.075(b) AND] 09.38.080(c)
29 shall include the following information:

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

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

(3) the name and address of the creditor and of the creditor's attorney, if any;

[(4) A COPY OF THE AFFIDAVIT FILED UNDER AS 09.38.080(b);]

(4) [(5)] a summary statement in lay terminology of the exemptions provided by the laws of this state;

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

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

* Sec. 6. AS 09.38.030(b), AS 09.38.050, AS 09.38.060(b), AS 09.38.065(c), AS 09.38.070, AS 09.38.075, AS 09.38.080(b), AS 09.38.085(a)(4), AS 09.38.095, AS 09.38.100(b) and AS 09.38.115 are repealed.