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1 IN THE HOUSE

2 HOUSE BILL NO. 139

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the jurisdiction of the superior
7 and district courts, judicial disqualification and
8 impeachment, the procedure for judicial retirement
9 due to incapacity or disability, and proceedings
10 before magistrates."

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

12 * Section 1. AS 09.30.200 is amended to read:

13 Sec. 09.30.200. FILING AND STATUS OF FOREIGN JUDGMENTS. A copy
14 of a foreign judgment authenticated in accordance with the Act of
15 Congress or the laws of this state may be filed in the office of the
16 clerk of the [SUPERIOR] court with jurisdiction in [OF] this state.
17 The clerk shall treat the foreign judgment in the same manner as a
18 domestic judgment [OF THE SUPERIOR COURT]. A judgment so filed has
19 the same effect and is subject to the same procedures, defenses, and
20 proceedings for reopening, vacating, or staying as a domestic judgment
21 [OF THE SUPERIOR COURT] and may be enforced or satisfied in like
22 manner.

23 * Sec. 2. AS 09.30.220 is amended to read:

24 Sec. 09.30.220. STAY. (a) If the judgment debtor shows the
25 [SUPERIOR] court that an appeal from the foreign judgment is pending
26 or will be taken, or that a stay of execution has been granted, the
27 court shall stay enforcement of the foreign judgment until the appeal
28 is concluded, the time for appeal expires, or the stay of execution
29 expires or is vacated, upon proof that the judgment debtor has

1 furnished the security for the satisfaction of the judgment required
2 by the state in which it was rendered.

3 (b) If the judgment debtor shows the [SUPERIOR] court any ground
4 upon which enforcement of a judgment of the [SUPERIOR] court of this
5 state would be stayed, the court shall stay enforcement of the foreign
6 judgment, for an appropriate period, upon requiring the same security
7 for satisfaction of the judgment that [WHICH] is required in this
8 state.

9 * Sec. 3. AS 09.30.230 is amended to read:

10 Sec. 09.30.230. FEES. A person filing a foreign judgment shall
11 pay to the clerk of court the fee prescribed for the filing of an
12 action. Fees for docketing, transcription, or other enforcement
13 proceedings shall be as provided for domestic judgments [OF THE SUPE-
14 RIOR COURT OF THIS STATE].

15 * Sec. 4. AS 09.43.170 is amended to read:

16 Sec. 09.43.170. COURT, JURISDICTION. In AS 09.43.010 - 09.43.-
17 180, the term "court" means the [SUPERIOR] court with jurisdiction in
18 [OF] this state. The making of an agreement described in AS 09.43.010
19 providing for arbitration in this state confers jurisdiction on the
20 [SUPERIOR] court to enforce the agreement under AS 09.43.010 - 09.43.-
21 180 and to enter judgment on an award under the agreement.

22 * Sec. 5. AS 22.07 is amended by adding a new section to read:

23 Sec. 22.07.075. IMPEACHMENT. A judge of the court of appeals is
24 subject to impeachment by the legislature for malfeasance or mis-
25 feasant in the performance of official duties. Impeachment must
26 originate in the senate and must be approved by two-thirds vote of its
27 members. The motion for impeachment must list fully the basis for the
28 proceeding. Trial on impeachment shall be conducted by the house of
29 representatives. A supreme court justice designated by the court

1 shall preside at the trial. Concurrence of two-thirds of the members
2 of the house is required for a judgment of impeachment. The judgment
3 may not extend beyond removal from office, but does not prevent pro-
4 ceedings in a court on the same or related charges.

5 * Sec. 6. AS 22.15.030(a) is amended to read:

6 (a) The district court has jurisdiction of civil cases, includ-
7 ing foreign judgments filed under AS 09.30.200 and arbitration pro-
8 ceedings under AS 09.43.170, as follows:

9 (1) for the recovery of money or damages when the amount
10 claimed exclusive of costs, interest, and attorney fees does not
11 exceed \$35,000 [\$25,000];

12 (2) for the recovery of specific personal property, when
13 the value of the property claimed and the damages for the detention do
14 not exceed \$35,000 [\$25,000];

15 (3) for the recovery of a penalty or forfeiture, whether
16 given by statute or arising out of contract, not exceeding \$35,000
17 [\$25,000];

18 (4) to give judgment without action upon the confession of
19 the defendant for any of the cases specified in this section, except
20 for a penalty or forfeiture imposed by statute;

21 (5) for establishing the fact of death of any person in the
22 manner prescribed in AS 09.55.020 - 09.55.060;

23 (6) for the recovery of the possession of premises in the
24 manner provided under AS 09.45.070 - 09.45.160 when the value [OF THE
25 PROPERTY OR] of the arrears and damage to the property does not exceed
26 \$35,000 [\$25,000];

27 (7) for the foreclosure of a lien when the amount in con-
28 troversy does not exceed \$35,000 [\$25,000];

29 (8) for the recovery of money or damages in motor vehicle

1 tort cases when the amount claimed exclusive of costs, interest and
2 attorney fees does not exceed \$35,000 [\$25,000];

3 (9) over civil actions for taking utility service and for
4 damages to or interference with a utility line filed under AS 42.20.-
5 030;

6 (10) over cases involving injunctive relief for domestic
7 violence under AS 25.35.010 and 25.35.020.

8 * Sec. 7. AS 22.15.120 is amended to read:

9 Sec. 22.15.120. LIMITATIONS ON PROCEEDINGS WHICH MAGISTRATE MAY
10 HEAR. A magistrate shall preside only in cases and proceedings under
11 AS 22.15.040, 22.15.100, and 22.15.110, and as follows,

12 (1) for the recovery of money or damages only when the
13 amount claimed, exclusive of costs, interest, and attorney fees, does
14 not exceed \$5,000;

15 (2) for the recovery of specific personal property when the
16 value of the property claimed and the damages for the detention do not
17 exceed \$5,000;

18 (3) for the recovery of a penalty or forfeiture, whether
19 given by statute or arising out of contract, not exceeding \$5,000;

20 (4) to give judgment without action upon the confession of
21 the defendant for any of the cases specified in this section, except
22 for a penalty or forfeiture imposed by statute;

23 (5) to give judgment of conviction upon a plea of guilty by
24 the defendant in a criminal proceeding within the jurisdiction of the
25 district court;

26 (6) to hear, try, and enter judgments in all cases involv-
27 ing misdemeanors, if the defendant consents in writing that the magis-
28 trate may try the case;

29 (7) to hear, try and enter judgments in all cases involving

1 infractions under AS 28, violations under AS 11, and violations of
2 ordinances of political subdivisions;

3 (8) for the extradition of fugitives as authorized under
4 AS 12.70.

5 * Sec. 8. AS 22.15 is amended by adding a new section to read:

6 Sec. 22.15.205. IMPEACHMENT. A district judge is subject to
7 impeachment by the legislature for malfeasance or misfeasance in the
8 performance of official duties. Impeachment must originate in the
9 senate and must be approved by two-thirds vote of its members. The
10 motion for impeachment must list fully the basis for the proceeding.
11 Trial on impeachment shall be conducted by the house of representa-
12 tives. A supreme court justice designated by the court shall preside
13 at the trial. Concurrence of two-thirds of the members of the house
14 is required for a judgment of impeachment. The judgment may not
15 extend beyond removal from office, but does not prevent proceedings in
16 the courts on the same or related charges.

17 * Sec. 9. AS 22.20.020(a) is repealed and reenacted to read:

18 (a) A judicial officer may not act in a matter in which

19 (1) the judicial officer is a party;

20 (2) the judicial officer is related to a party or a party's
21 attorney by consanguinity or affinity within the third degree;

22 (3) the judicial officer is a material witness;

23 (4) the judicial officer or the spouse of the judicial
24 officer, individually or as a fiduciary, or a child of the judicial
25 officer has a direct financial interest in the matter;

26 (5) a party, except the state or a municipality of the
27 state, has retained or been professionally counseled by the judicial
28 officer as its attorney within two years preceding the assignment of
29 the judicial officer to the matter;

1 (6) the judicial officer has represented a person as attorney
2 for the person against a party, except the state or a municipality
3 of the state, in a matter within two years preceding the assignment of
4 the judicial officer to the matter;

5 (7) an attorney for a party has represented the judicial
6 officer or a person against the judicial officer, either in the judicial
7 officer's public or private capacity, in a matter within two
8 years preceding the filing of the action;

9 (8) the law firm with which the judicial officer was associated
10 in the practice of law within the two years preceding the
11 filing of the action has been retained or has professionally counseled
12 either party with respect to the matter;

13 (9) the judicial officer feels that, for any reason, a fair
14 and impartial decision cannot be given.

15 * Sec. 10. AS 22.20.020(b) is repealed and reenacted to read:

16 (b) The disqualifications specified in (a)(2), (a)(5), (a)(6),
17 (a)(7), and (a)(8) of this section may be waived by the parties and
18 are waived unless a party raises an objection.

19 * Sec. 11. AS 22.25.010(b) is amended to read:

20 (b) A justice or judge may be retired for incapacity as provided
21 in this section [BY LAW]. A justice or judge is eligible for retirement
22 pay with two or more years of service at the time of retirement
23 for incapacity. The effective date of retirement under this subsection
24 is the first day of the month coinciding with or after the date
25 that [UPON WHICH] the governor [WITH RESPECT TO A JUSTICE, OR THE
26 SUPREME COURT WITH RESPECT TO A JUDGE] files written notice with the
27 commissioner of administration [A WRITTEN DECLARATION TO THE EFFECT]
28 that a designated justice or judge was retired for incapacity. A
29 duplicate copy of the notice [DECLARATION] shall be filed with the

1 Judicial Council.

2 * Sec. 12. AS 22.30.070(c) is amended to read:

3 (c) On recommendation of the commission or after an appeal under
4 AS 22.30.011(e), the supreme court may (1) retire a judge for dis-
5 ability that seriously interferes with the performance of duties and
6 that is or may become permanent, and (2) publicly or privately censure
7 or remove a judge for action occurring not more than six years before
8 the commencement of the judge's current term which constitutes wilful
9 misconduct in the office, wilful and persistent failure to perform
10 duties, habitual intemperance, conduct prejudicial to the adminis-
11 tration of justice, or conduct that brings the judicial office into
12 disrepute. The effective date of retirement under (1) of this sub-
13 section is the first day of the month coinciding with or after the
14 date that the supreme court files written notice with the commissioner
15 of administration that the judge was retired for disability. A dupli-
16 cate copy of the notice shall be filed with the Judicial Council.