

1 IN THE HOUSE BY SWACKHAMMER AND LARSON

2 HOUSE BILL NO. 223

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 permanent fund dividends; and
7 providing for an effective date."

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

9 * Section 1. AS 43.23.005 is amended by adding a new subsection to
10 read:

11 (d) An agency may claim all or part of the permanent fund divi-
12 dend of an individual the agency has reason to believe is eligible to
13 receive the dividend if the individual has an outstanding obligation
14 of a type listed under AS 43.23.065(b). If an agency claims all or
15 part of a dividend, the money shall be applied toward fulfillment of
16 the outstanding obligation. A claim under this subsection has prior-
17 ity over a claim under (a) or (c) of this section and priority over a
18 claim under AS 43.23.015(e). If more than one agency claims all or
19 part of a dividend, the claims have priority in the order listed under
20 AS 43.23.065(b). Before payment of all or part of an individual's
21 dividend is made to an agency, the commissioner shall provide the
22 individual with

- 23 (1) notification of the claim and amount claimed;
24 (2) a statement of the basis for the claim; and
25 (3) if applicable, identification of the case under which
26 the claim has been made.

27 * Sec. 2. AS 43.23.015(b) is amended to read:

28 (b) The department shall prescribe and furnish an application
29 form for claiming a permanent fund dividend. The application for a

1 claim under AS 43.23.005(d) must include a statement by the agency of
2 the basis for its belief that the individual is eligible to receive
3 the dividend and a statement of the basis of the agency's claim in-
4 cluding, if applicable, identification of the case under which the
5 claim has been made. The application for a claim under AS 43.23.-
6 005(a) or (c) must contain a statement of eligibility and a certifica-
7 tion of residency in substantially the following form:

8 I certify that

9 () I am a state resident on the date of this application and I
10 have been a state resident for at least six months immediately preced-
11 ing the date of this application; or

12 () (name), the individual on whose behalf I am applying, is a
13 state resident and has been a state resident for at least six months
14 immediately preceding the date of this application.

15 I understand that a false claim of residency to obtain a
16 permanent fund dividend for myself or for another is a criminal of-
17 fense and that if convicted I will forfeit future permanent fund
18 dividends and that I must repay all permanent fund dividends that have
19 been paid to me. I understand that this penalty is in addition to any
20 criminal penalties imposed.

21 _____
22 (signature of individual, parent, guardian,
23 or other authorized representative)

24 * Sec. 3. AS 43.23.015(c) is amended to read:

25 (c) Except for claims under AS 43.23.005(d) and as provided in
26 (d) of this section or as may be provided by regulations adopted by
27 the department, an individual must personally sign the application for
28 permanent fund dividends, including the certification of residency
29 required under (b) of this section.

1 * Sec. 4. AS 43.23.015(e) is amended to read:

2 (e) Except as provided in AS 43.23.005(d), if [IF] a govern-
3 mental entity [PUBLIC AGENCY] claims a permanent fund dividend on
4 behalf of an individual, the governmental entity [PUBLIC AGENCY] shall
5 hold the dividend in trust for the individual. Money held in trust
6 under this subsection shall be invested by the commissioner in accor-
7 dance with AS 37.10.070.

8 * Sec. 5. AS 43.23.065 is amended to read:

9 Sec. 43.23.065. EXEMPTION OF PERMANENT FUND DIVIDENDS. (a)
10 Except as provided in (b) of this section, 50 percent of the annual
11 permanent fund dividend payable to an individual is exempt from levy,
12 execution, garnishment, attachment, or any other remedy for the col-
13 lection of debt. This exemption applies to an eligible individual's
14 permanent fund dividend both before and after payment is made to the
15 individual. Notwithstanding other laws, no other exemption applies to
16 a dividend. A creditor is not required to serve the individual with
17 notice of levy under AS 09.38.085. A writ of execution may be served
18 on the commissioner by a court by certified mail. The commissioner
19 shall include the case name and number with a dividend delivered to
20 the court in accordance with a writ of execution.

21 (b) An exemption is not available under this section for perma-
22 nent fund dividends taken to satisfy

23 (1) child support obligations required by court order or
24 decision of the child support enforcement agency under AS 47.23.140 -
25 47.23.220;

26 (2) court ordered restitution under AS 12.55.045 - 12.55.-
27 051 or 12.55.100;

28 (3) a court ordered fine;

29 (4) a court ordered probation fee under AS 12.55.105; or

1 (5) [(4)] a debt owed by an eligible individual to an
2 agency [OF THE STATE], unless the debt is contested and an appeal is
3 pending, or the time limit for filing an appeal has not expired.

4 (c) A claim [CLAIMS] listed in (b) of this section or a volun-
5 tary assignment of a dividend in payment or partial payment of a debt
6 listed in (b) of this section has [HAVE] priority in the order listed
7 over other claims on a permanent fund dividend.

8 * Sec. 6. AS 43.23.065 is amended by adding new subsections to read:

9 (d) AS 09.38 does not apply to permanent fund dividends taken to
10 satisfy debts under (b) of this section. Notwithstanding AS 09.35,
11 execution on a claim listed under (b) of this section is accomplished
12 by delivering a certified copy of the court order or judgment to the
13 commissioner.

14 (e) Before payment of all or part of an individual's permanent
15 fund dividend is made to a creditor under this section the commission-
16 er shall provide the individual with

17 (1) notification of the claim and amount claimed;

18 (2) a statement of the basis for the claim; and

19 (3) if applicable, identification of the case under which
20 the claim has been made.

21 * Sec. 7. AS 43.23.095 is amended by adding a new paragraph to read:

22 (9) "agency" means a state agency, state court, or munic-
23 ipality.

24 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).