

Original sponsors: Swackhammer and Larson

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 223 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to remedies for the collection of
7 debt involving permanent fund dividends and to the
8 exemption for dividends; amending Alaska Rule of
9 Civil Procedure 69; and providing for an effective
10 date."
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
12 * Section 1. AS 09.38.015(a) is amended to read:
13 (a) An individual is entitled to exemption of the following
14 property:
15 (1) a burial plot for the individual and the individual's
16 family;
17 (2) health aids reasonably necessary to enable the indi-
18 vidual or a dependent to work or to sustain health;
19 (3) benefits paid or payable for medical, surgical, or
20 hospital care to the extent they are or will be used to pay for the
21 care;
22 (4) an award under AS 18.67 (Violent Crimes Compensation
23 Board) or a crime victim's reparations Act of another jurisdiction;
24 (5) benefits paid or payable as a longevity bonus under
25 AS 47.45;
26 (6) compensation or benefits paid or payable and exempt
27 under federal law;
28 (7) liquor licenses granted under AS 04;
29 (8) limited entry permits granted under AS 16.43, except as

1 provided in that chapter;

2 (9) that portion of a permanent fund dividend exempted
3 under AS 43.23.065(a).

4 * Sec. 2. AS 09.38.030(b) is amended to read:

5 (b) An individual who does not receive earnings either weekly,
6 semi-monthly or monthly is entitled to a maximum exemption for the
7 aggregate value of cash and other liquid assets available in any month
8 of \$700, except as provided in AS 09.38.050 and AS 43.23.065(a). The
9 term "liquid assets" includes deposits, securities, notes, drafts,
10 accrued vacation pay, refunds, prepayments, and receivables.

11 * Sec. 3. AS 09.38.065(a) is amended to read:

12 (a) Notwithstanding other provisions of this chapter,

13 (1) a creditor may make a levy against exempt property of
14 any kind, except property exempted under AS 43.23.065(a), to enforce a
15 claim for

16 (A) child support;

17 (B) unpaid earnings of up to one month's compensation
18 or the full-time equivalent of one month's compensation for
19 personal services of an employee; or

20 (C) state or local taxes; and

21 (2) a creditor may make a levy against exempt property to
22 enforce a claim for

23 (A) the purchase price of the property or a loan made
24 for the express purpose of enabling an individual to purchase the
25 property and used for that purpose;

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

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

1 * Sec. 4. AS 43.23.065(a) is amended to read:

2 (a) One hundred dollars [EXCEPT AS PROVIDED IN (b) OF THIS
3 SECTION, 50 PERCENT] of the annual permanent fund dividend payable to
4 an individual is exempt from levy, execution, garnishment, attachment,
5 or any other remedy for the collection of debt. This exemption ap-
6 plies to an eligible individual's permanent fund dividend both before
7 and after payment is made to the individual. No other exemption
8 applies to a dividend. The commissioner shall include the case name
9 and number with a dividend delivered to the court in accordance with a
10 writ of execution.

11 * Sec. 5. AS 43.23.065(b) is amended to read:

12 (b) The following claims, or voluntary assignments of dividends
13 in payment or partial payment of the claims, have priority in the
14 order listed over other claims on [AN EXEMPTION IS NOT AVAILABLE UNDER
15 THIS SECTION FOR] permanent fund dividends: [TAKEN TO SATISFY]

16 (1) child support obligations required by court order or
17 decision of the child support enforcement agency under AS 47.23.140 -
18 47.23.220;

19 (2) court ordered restitution under AS 12.55.045 - 12.55.-
20 051 or 12.55.100;

21 (3) a court ordered fine;

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

23 (5) [(4)] a debt owed by an eligible individual to an
24 agency of the state or state court, unless the debt is contested and
25 an appeal is pending, or the time limit for filing an appeal has not
26 expired.

27 * Sec. 6. AS 43.23.067 is amended to read:

28 Sec. 43.23.067. CERTAIN DIVIDEND CLAIMS [CLAIMS OF DEFAULTED
29 SCHOLARSHIP LOANS]. (a) AS 09.38 does not apply to permanent fund

1 dividends taken to satisfy debts listed under AS 43.23.065(b) for
2 which payments are at least 45 days overdue [AS 14.43.120(i)]. Not-
3 withstanding AS 09.35, execution on a claim to satisfy a debt listed
4 under AS 43.23.065(b) for which payments are at least 45 days overdue
5 [AS 14.43.120(i)] is accomplished by delivering a [CERTIFIED] claim to
6 the department containing the following information:

7 (1) the name [AND SOCIAL SECURITY NUMBER] of the individual
8 whose dividend is being claimed and sufficient information to identify
9 the individual;

10 (2) the amount the individual owes to the agency of the
11 state or state court [ON THE SCHOLARSHIP LOAN]; [AND]

12 (3) a statement of the basis for the claim, including the
13 date payment on the debt became due; and

14 (4) a statement that

15 (A) if the debt has not been contested, the individual
16 has had notice of the debt and an opportunity to contest, or, if
17 contested, that the issue has been resolved in favor of the
18 agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION];
19 and

20 (B) if the debt has been contested and resolved in
21 favor of the agency or court [ALASKA COMMISSION ON POSTSECONDARY
22 EDUCATION], no appeal is pending, the time limit for filing an
23 appeal has expired, or the appeal has been resolved in favor of
24 the agency or court [COMMISSION].

25 (b) Upon receipt of a claim under (a) of this section the de-
26 partment shall send notice [NOTIFY THE INDIVIDUAL OF THE CLAIM. THE
27 NOTICE SHALL BE SENT] to the address provided in the individual's
28 permanent fund dividend application that contains [AND MUST PROVIDE]
29 the following information:

- 1 (1) the identity of the agency or court making the claim;
2 (2) the amount of the claim; [AND]
3 (3) a statement of the basis for the claim, including the
4 date payment on the debt became due; and

5 (4) [(2)] notice that the amount of the permanent fund
6 dividend that does not exceed the amount of the claim, after deducting
7 the exemption under AS 43.23.065(a), will [SHALL] be paid to the
8 agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION] unless
9 the agency or court [COMMISSION] releases the claim or the individual
10 requests a hearing on the validity of the claim from the agency or
11 court making the claim within 30 days after the date the notice is
12 sent by the department.

13 (c) If a hearing is requested by an individual, the agency or
14 court making the claim shall notify the department. The agency or
15 court making the claim is responsible for affording the individual a
16 hearing on the validity of the claim and notice of any appeal rights
17 the individual may have. A hearing is not required under this sub-
18 section on the validity of the debt that forms the basis for the
19 claim. If no notice of a request for a hearing or release of the
20 claim is received by the department from the agency or court [AS 44.-
21 62.330 - 44.62.630 APPLY TO A HEARING REQUESTED BY AN INDIVIDUAL UNDER
22 (b)(2) OF THIS SECTION. IF A REQUEST FOR A HEARING IS NOT RECEIVED BY
23 THE DEPARTMENT WITHIN THE REQUIRED TIME LIMIT], the department shall
24 pay to the agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCA-
25 TION] the amount of the permanent fund dividend that does not exceed
26 the amount of the claim, after deducting the exemption under AS 43.-
27 23.065(a). The commissioner shall include the case name and number
28 with a payment to the court.

29 * Sec. 7. AS 43.23.067, as amended by sec. 6 of this Act, has the

1 effect of amending Alaska Rule of Civil Procedure 69 by authorizing
2 agencies of the state and state courts to execute on permanent fund divi-
3 dends in certain cases without using the execution procedures provided in
4 that rule.

5 * Sec. 8. AS 43.23.065(c) is repealed.

6 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).