

Original sponsors: Swackhammer and Larson

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 223 (Finance) am

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 owed to state agencies and courts involving  
8 permanent fund dividends, to assignments of divi-  
9 dends, and to the exemption for dividends; amending  
10 Alaska Rule of Civil Procedure 69; and providing for  
11 an effective date."

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

13 \* Section 1. AS 09.38.015(a) is amended to read:

14 (a) An individual is entitled to exemption of the following  
15 property:

16 (1) a burial plot for the individual and the individual's  
17 family;

18 (2) health aids reasonably necessary to enable the indi-  
19 vidual or a dependent to work or to sustain health;

20 (3) benefits paid or payable for medical, surgical, or  
21 hospital care to the extent they are or will be used to pay for the  
22 care;

23 (4) an award under AS 18.67 (Violent Crimes Compensation  
24 Board) or a crime victim's reparations Act of another jurisdiction;

25 (5) benefits paid or payable as a longevity bonus under  
26 AS 47.45;

27 (6) compensation or benefits paid or payable and exempt  
28 under federal law;

29 (7) liquor licenses granted under AS 04;

1 (8) limited entry permits granted under AS 16.43, except as  
2 provided in that chapter;

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

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

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

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

13 (a) Notwithstanding other provisions of this chapter,

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

17 (A) child support;

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

21 (C) state or local taxes; and

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

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

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

29 (C) a special assessment imposed to defray costs of a

1 public improvement benefiting the property.

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

3 (a) One hundred dollars [EXCEPT AS PROVIDED IN (b) OF THIS  
4 SECTION, 50 PERCENT] of the annual permanent fund dividend payable to  
5 an individual is exempt from levy, execution, garnishment, attachment,  
6 or any other remedy for the collection of debt. This exemption ap-  
7 plies to an eligible individual's permanent fund dividend both before  
8 and after payment is made to the individual. No other exemption  
9 applies to a dividend. The commissioner shall include the case name  
10 and number with a dividend delivered to the court in accordance with a  
11 writ of execution. An exemption is not available under this subsec-  
12 tion for permanent fund dividends taken to satisfy child support  
13 obligations required by court order or decision of the child support  
14 enforcement agency under AS 47.23.140 - 47.23.220.

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

16 (b) The following claims, or voluntary assignments of dividends  
17 in payment or partial payment of the claims, have priority in the  
18 order listed over other claims on permanent fund dividends: [AN  
19 EXEMPTION IS NOT AVAILABLE UNDER THIS SECTION FOR PERMANENT FUND  
20 DIVIDENDS TAKEN TO SATISFY]

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

24 (2) court ordered restitution under AS 12.55.045 - 12.55.-  
25 051 or 12.55.100;

26 (3) a court ordered fine;

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

28 (5) [(4)] a debt owed by an eligible individual to an  
29 agency of the state or state court, unless the debt is contested and

1 an appeal is pending, or the time limit for filing an appeal has not  
2 expired.

3 \* Sec. 6. AS 43.23.067 is amended to read:

4 Sec. 43.23.067. CERTAIN DIVIDEND CLAIMS [CLAIMS OF DEFAULTED  
5 SCHOLARSHIP LOANS]. (a) AS 09.38 does not apply to permanent fund  
6 dividends taken to satisfy that portion of debts listed under  
7 AS 43.23.065(b) for which payments are at least 90 days overdue  
8 [AS 14.43.120(i)]. Notwithstanding AS 09.35, execution on a claim to  
9 satisfy that portion of a debt listed under AS 43.23.065(b) for which  
10 payments are at least 90 days overdue may be [AS 14.43.120(i) IS]  
11 accomplished by delivering a [CERTIFIED] claim to the department  
12 containing the following information:

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

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

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

20 (4) a statement that

21 (A) if the debt has not been contested, the individual  
22 has had notice of the debt and an opportunity to contest, or, if  
23 contested, that the issue has been resolved in favor of the  
24 agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION];  
25 and

26 (B) if the debt has been contested and resolved in  
27 favor of the agency or court [ALASKA COMMISSION ON POSTSECONDARY  
28 EDUCATION], no appeal is pending, the time limit for filing an  
29 appeal has expired, or the appeal has been resolved in favor of

1           the agency or court [COMMISSION].

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

7                     (1) the identity of the agency or court making the claim;

8                     (2) the amount of the claim; [AND]

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

11                    (4) [(2)] notice that the amount of the permanent fund  
12           dividend that does not exceed the amount of the claim, after deducting  
13           the exemption under AS 43.23.065(a), will [SHALL] be paid to the  
14           agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION] unless  
15           the agency or court [COMMISSION] releases the claim or the individual  
16           requests a hearing on the validity of the claim from the agency or  
17           court making the claim within 45 [30] days after the date the notice  
18           is sent by the department.

19           (c) If a hearing is requested by an individual, the agency or  
20           court making the claim shall notify the department. The agency or  
21           court making the claim is responsible for affording the individual a  
22           hearing on the validity of the claim and notice of any appeal rights  
23           the individual may have. A hearing is not required under this sub-  
24           section on the validity of the debt that forms the basis for the claim  
25           if the individual has already been provided an opportunity for a  
26           hearing on that issue. If no notice of a request for a hearing or  
27           release of the claim is received by the department from the agency or  
28           court [AS 44.62.330 - 44.62.630 APPLY TO A HEARING REQUESTED BY AN  
29           INDIVIDUAL UNDER (b)(2) OF THIS SECTION. IF A REQUEST FOR A HEARING

1 IS NOT RECEIVED BY THE DEPARTMENT WITHIN THE REQUIRED TIME LIMIT], the  
2 department shall pay to the agency or court [ALASKA COMMISSION ON  
3 POSTSECONDARY EDUCATION] the amount of the permanent fund dividend  
4 that does not exceed the amount of the claim, after deducting the  
5 exemption under AS 43.23.065(a). The commissioner shall include the  
6 case name and number with a payment to the court.

7 \* Sec. 7. AS 43.23 is amended by adding a new section to read:

8 Sec. 43.23.068. ADMINISTRATIVE COSTS. The department shall  
9 charge the claimant or assignor for costs of processing a claim on or  
10 assignment of a permanent fund dividend. Fees under this section  
11 shall be established by regulation at levels that cover the adminis-  
12 trative costs of processing all claims and assignments. The commis-  
13 sioner of administration shall separately account for receipts depos-  
14 ited in the general fund by the department under this section. The  
15 department shall submit to the legislature a request for an appro-  
16 priation of the receipts for the costs of processing claims and as-  
17 signments each year.

18 \* Sec. 8. AS 43.23.067, as amended by sec. 6 of this Act, has the  
19 effect of amending Alaska Rule of Civil Procedure 69 by authorizing agen-  
20 cies of the state and state courts to execute on permanent fund dividends  
21 in certain cases without using the execution procedures provided in that  
22 rule.

23 \* Sec. 9. AS 43.23.065(c) is repealed.

24 \* Sec. 10. This Act takes effect April 1, 1989.