

Introduced: 4/14/88
Referred: Judiciary and Finance

5-2123A

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO. 508

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 property exemptions for certain
7 retirement plan interests and payments."

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

9 * Section 1. AS 09.38 is amended by adding a new section to read:

10 Sec. 09.38.017. EXEMPTION OF RETIREMENT PLAN INTERESTS AND PAY-
11 MENTS. (a) In addition to the exemption under AS 09.38.015(b), the
12 following are exempt from a claim of an individual's creditor:

13 (1) the interest of the individual in a retirement plan;

14 and

15 (2) the money or other assets payable to the individual
16 from a retirement plan.

17 (b) The exemptions provided by (a) of this section do not apply
18 to a contribution made by an individual to a retirement plan within
19 120 days before the individual files for bankruptcy.

20 (c) The exemptions provided by (a) of this section do not pre-
21 vent the payment of benefits under a retirement plan to an alternate
22 payee under a qualified domestic relations order. In this subsection,
23 "qualified domestic relations order" has the meaning given in 26
24 U.S.C. 414(p).

25 (d) A retirement plan exempt from claims under (a) of this
26 section is conclusively presumed to be a spendthrift trust under this
27 section.

28 (e) In this section,

29 (1) "alternate payee" has the meaning given in 26 U.S.C.

1 414(p)(8);

2 (2) "individual" means an individual who is a participant
3 in, a beneficiary of, or an alternate payee of a retirement plan;

4 (3) "retirement plan" means a retirement plan that is
5 qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b),
6 26 U.S.C. 408, or 26 U.S.C. 409 (Internal Revenue Code).

7 * Sec. 2. AS 09.38.025(a) is amended to read:

8 (a) Except as provided in this section or AS 09.38.017, an
9 individual is entitled to exemption of unmatured life insurance and
10 annuity contracts owned by the individual. If the contracts have
11 accrued dividends and loan values available to the individual ag-
12 gregating more than \$5,000, a creditor may obtain a court order re-
13 quiring the individual debtor to pay the creditor, and authorizing the
14 creditor on the debtor's behalf to obtain payment of, the amount of
15 the accrued dividends and loan values in excess of \$5,000 or the
16 amount of the creditor's claim, whichever is less.

17 * Sec. 3. AS 09.38.030(e) is amended to read:

18 (e) The following property, unless exempt without limitation
19 under AS 09.38.015 or 09.38.017, upon receipt by and while it is in
20 the possession of the individual, shall be treated as earnings, in-
21 come, cash, or other liquid assets under this section:

22 (1) benefits paid by reason of disability, illness, or
23 unemployment;

24 (2) money or property received for alimony or separate
25 maintenance;

26 (3) proceeds of insurance, a judgment, or a settlement, or
27 other rights accruing as a result of bodily injury of the individual
28 or of the wrongful death or bodily injury of another individual of
29 whom the individual was or is a dependent;

1 (4) proceeds or benefits paid or payable on the death of an
2 insured, if the individual was the spouse or a dependent of the in-
3 sured; and

4 (5) amounts paid under a stock bonus, pension, profit-
5 sharing, annuity, or similar plan or contract, providing benefits by
6 reason of age, illness, disability, or length of service.

7 * Sec. 4. AS 09.38.055 is amended to read:

8 Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under
9 11 U.S.C. (Bankruptcy) [THE BANKRUPTCY ACT (11 U.S.C.)] only the
10 exemptions under AS 09.38.010, 09.38.015(a), 09.38.017, 09.38.020,
11 09.38.025 and 09.38.030 apply.

12 * Sec. 5. AS 09.38.017, added by sec. 1 of this Act, does not apply to
13 the assets of a bankruptcy estate in a proceeding filed under 11 U.S.C.
14 (Bankruptcy) before the effective date of this Act.