

Offered: 3/7/90
Referred: Finance

6-1111D

Original sponsor(s): REP. BOYER

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 255 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to permanent fund dividends for
7 certain individuals convicted of crimes, to costs of
8 administering the dividend program, to the exemption
9 for permanent fund dividends, to remedies for the
10 collection of debts involving dividends, and to the
11 priority of claims on a dividend; and providing for
12 an effective date."

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

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

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

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

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

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

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

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

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

1 (7) liquor licenses granted under AS 04;
2 (8) limited entry permits granted under AS 16.43, except as
3 provided in that chapter;
4 (9) that portion of a permanent fund dividend exempted
5 under AS 43.23.065(a).

6 * Sec. 2. AS 14.43.120(i) is amended to read:

7 (i) If a loan is in default, the commission shall notify the
8 borrower that repayment of the remaining balance is accelerated and
9 due by sending the borrower a notice by registered or certified mail.
10 The permanent fund dividend of a borrower may be taken under AS 43.-
11 23.065(b(4)) [AS 43.23.065(b)(3)] to satisfy the balance due on the
12 defaulted loan.

13 * Sec. 3. AS 43.23 is amended by adding a new section to read:

14 Sec. 43.23.007. DIVIDENDS OF INCARCERATED INDIVIDUALS. (a)
15 Notwithstanding the application requirements of AS 43.23.005, only the
16 Department of Corrections may apply during a year for a dividend for
17 an individual who was incarcerated at the time of application. An
18 application under this subsection must be signed by the individual and
19 the commissioner of corrections or an employee of the Department of
20 Corrections authorized by the commissioner to sign applications. An
21 individual who receives a dividend while incarcerated shall deliver
22 the dividend to the Department of Corrections.

23 (b) The Department of Corrections shall notify each individual
24 subject to the requirements of this section of those requirements and
25 shall apply for a permanent fund dividend for each of those indivi-
26 duals who qualifies for a dividend and agrees to sign the application.

27 (c) The Department of Corrections shall, by August 1 of each
28 dividend year, provide the Department of Revenue with a list of all
29 individuals for whom the Department of Corrections has applied for a

1 dividend under this section and all individuals who were incarcerated
2 at some time during the three-month period beginning April 1 of the
3 dividend year for whom the department has not applied for a dividend.
4 The Department of Revenue shall pay a dividend to the Department of
5 Corrections for each individual who is eligible for a dividend and on
6 whose behalf a timely application was filed by the Department of
7 Corrections. The Department of Corrections shall hold in trust each
8 permanent fund dividend it receives from the Department of Revenue or
9 from an incarcerated individual and shall pay the amount held in trust
10 to the individual upon the individual's release from incarceration or
11 upon receipt of the dividend, whichever is later.

12 (d) In this section, "incarcerated" means incarcerated as a
13 result of conviction of a misdemeanor or felony

14 (1) in a correctional facility;

15 (2) on furlough under AS 33.30.101 - 33.30.131;

16 (3) in a community residential center as a condition of
17 probation or parole; or

18 (4) in a correctional restitution center under AS 33.30.-
19 151 - 33.30.181.

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

21 (e) Except as provided in AS 43.23.007, if [IF] a public agency
22 claims a permanent fund dividend on behalf of an individual, the
23 public agency shall hold the dividend in trust for the individual.
24 Money held in trust under this subsection shall be invested by the
25 commissioner in accordance with AS 37.10.070.

26 * Sec. 5. AS 43.23.025(a) is amended to read:

27 (a) By October 1 of each year the commissioner shall give public
28 notice of the value of each permanent fund dividend for that year.
29 The public notice shall contain a statement disclosing the amount by

1 which each individual dividend has been reduced in order to pay the
2 costs of [ADMINISTERING THE PROGRAM AND] the hold harmless provisions
3 of AS 43.23.075 and the costs of administering the dividend program,
4 other than costs of administering AS 43.23.007. The commissioner
5 shall also include the statement on the stub attached to each indi-
6 vidual dividend check. The commissioner shall determine the value of
7 a permanent fund dividend by

8 (1) determining the total amount available for dividend
9 payments, which equals

10 (A) the amount of income of the Alaska permanent fund
11 transferred to the dividend fund under AS 43.23.045(b) during the
12 current year;

13 (B) plus the unexpended and unobligated balances of
14 prior fiscal year appropriations that lapse into the dividend
15 fund under AS 43.23.045(d);

16 (C) less the amount necessary to pay dividends from
17 the dividend fund in the current year under AS 43.23.055(3);

18 (D) less the amount necessary to pay dividends from
19 the dividend fund due to eligible applicants who, as determined
20 by the department, filed for a previous year's dividend by the
21 filing deadline but who were not included in a previous year's
22 dividend computation;

23 (E) less the costs of the hold harmless provisions of
24 AS 43.23.075 and the costs of administering the dividend program,
25 other than costs of administering AS 43.23.007;

26 (2) determining the number of individuals eligible to
27 receive a dividend payment for the current year; and

28 (3) dividing the amount determined under (1) of this sec-
29 tion by the amount determined under (2) of this section.

1 * Sec. 6. AS 43.23.065(a) is amended to read:

2 (c) Except as provided in (b) of this section, 50 percent of the
3 annual permanent fund dividend payable to an individual or to the
4 Department of Corrections under AS 43.23.007 is exempt from levy,
5 execution, garnishment, attachment, or any other remedy for the col-
6 lection of debt. This exemption applies to an eligible individual's
7 permanent fund dividend both before and after payment is made to the
8 individual. No other exemption applies to a dividend. If the divi-
9 dend is levied upon while in the possession of the Department of
10 Revenue or the Department of Corrections, the department shall with-
11 hold from the creditor the amount of the dividend that is exempt.

12 * Sec. 7. AS 43.23.065(b) is amended to read:

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

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

18 (2) court ordered restitution under AS 12.55.045 - 12.55.-
19 051 or 12.55.100; [OR]

20 (3) court ordered fines; or

21 (4) a debt owed by an eligible individual to an agency of
22 the state, unless the debt is contested and an appeal is pending, or
23 the time limit for filing an appeal has not expired.

24 * Sec. 8. AS 43.23.065 is amended by adding a new subsection to read:

25 (d) AS 09.38.080(c) and 09.38.085 do not apply to a levy on a
26 permanent fund dividend. The department shall include the case name
27 and number with a dividend or portion of a dividend delivered to the
28 court in response to a writ of execution. At the time payment is made
29 to the court, the department shall send to the individual at the

1 address provided in the individual's dividend application a notice
2 that contains

3 (1) notice that all or part of the individual's dividend
4 has been seized under a writ of execution;

5 (2) the name and address of the court that issued the writ;

6 (3) the case name and number for which the writ was issued;

7 (4) the amount seized; and

8 (5) notice that the individual has 30 days from the date
9 the notice is mailed in which to file with the court an objection to
10 the seizure if a mistake has been made.

11 * Sec. 9. AS 43.23.005(d), 43.23.025(b), 43.23.055(5), and 43.23.055(6)
12 are repealed.

13 * Sec. 10. Section 5, ch. 54, SLA 1988 is repealed.

14 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).