

CS FOR HOUSE BILL NO. 291 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/13/92

Referred: Judiciary, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the exemption for permanent fund dividends from the collection of
2 debts, to the collection of debts by execution on dividends, and to claims on a dividend;
3 and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

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

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

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

8 (2) health aids reasonably necessary to enable the individual or a dependent to
9 work or to sustain health;

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

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

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

- 1 (6) compensation or benefits paid or payable and exempt under federal law;
2 (7) liquor licenses granted under AS 04;
3 (8) limited entry permits granted under AS 16.43, except as provided in that
4 chapter;
5 (9) tuition credits under an advance college tuition payment contract authorized
6 under AS 14.40.809(a);
7 (10) that portion of a permanent fund dividend exempted under
8 AS 43.23.065(a).

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

- 10 (b) An individual who does not receive earnings either weekly, semi-monthly or monthly
11 is entitled to a maximum exemption for the aggregate value of cash and other liquid assets
12 available in any month of \$1,400, except as provided in AS 09.38.050. The term "liquid assets"
13 includes deposits, securities, notes, drafts, accrued vacation pay, refunds, prepayments, and
14 receivables, but does not include permanent fund dividends before or after receipt by the
15 individual.

16 * Sec. 3. AS 14.43.120(i) is amended to read:

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

21 * Sec. 4. AS 43.23.065 is amended to read:

22 Sec. 43.23.065. EXEMPTION OF AND LEVY ON PERMANENT FUND DIVIDENDS.

- 23 (a) Except as provided in (b) of this section, 45 percent of the annual permanent fund dividend
24 payable to an individual is exempt from levy, execution, garnishment, attachment, or any other
25 remedy for the collection of debt. This exemption applies to an eligible individual's permanent
26 fund dividend both before and after payment is made to the individual. No other exemption
27 applies to a dividend.

- 28 (b) An exemption is not available under this section for permanent fund dividends taken
29 to satisfy

- 30 (1) child support obligations required by court order or decision of the child
31 support enforcement agency under AS 25.27.140 - 25.27.220;

- 1 (2) court ordered restitution under AS 12.55.045 - 12.55.051 or 12.55.100; [OR]
2 (3) court ordered fines; or
3 (4) a debt owed by an eligible individual to an agency of the state, unless the debt
4 is contested and an appeal is pending, or the time limit for filing an appeal has not expired.

5 (c) Claims listed in (b) of this section have priority in the order listed over other claims
6 on a permanent fund dividend whether payments are sought through legal actions for the
7 collection of debts or through assignments.

8 * Sec. 5. AS 43.23.065 is amended by adding a new subsection to read:

9 (d) AS 09.38.080(c) and 09.38.085 do not apply to a levy on a permanent fund dividend.
10 The department shall include the case number with a dividend or portion of a dividend
11 transmitted to the court in response to a writ of execution. At the time payment is made to the
12 court, the department shall send to the individual at the address provided in the individual's
13 dividend application and to the court that issued the writ a notice that contains

- 14 (1) notification that all or part of the individual's dividend has been seized under
15 a writ of execution;
16 (2) the name and address of the court that issued the writ;
17 (3) the case number for which the writ was issued;
18 (4) the amount seized under the writ; and
19 (5) notification that the individual has 30 days from the date the notice is mailed
20 in which to file with the court an objection to the seizure if a mistake has been made.

21 * Sec. 6. AS 43.23.067(b) is amended to read:

22 (b) The Alaska Commission on Postsecondary Education [UPON RECEIPT OF A
23 CLAIM UNDER (A) OF THIS SECTION THE DEPARTMENT] shall notify the individual of
24 a [THE] claim under (a) of this section. The notice shall be sent to the address provided in the
25 individual's permanent fund dividend application and must provide the following information:

- 26 (1) the amount of the claim; and
27 (2) notice that the amount of the permanent fund dividend that does not exceed
28 the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education
29 unless the commission releases the claim or the individual requests a hearing within 30 days after
30 the date the notice is sent by the commission [DEPARTMENT].

31 * Sec. 7. AS 43.23.067(c) is amended to read:

1 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b)(2)
2 of this section. [IF A REQUEST FOR A HEARING IS NOT RECEIVED BY THE
3 DEPARTMENT WITHIN THE REQUIRED TIME LIMIT, THE DEPARTMENT SHALL PAY
4 TO THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION THE AMOUNT OF
5 THE PERMANENT FUND DIVIDEND THAT DOES NOT EXCEED THE AMOUNT OF THE
6 CLAIM.]

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