

CS FOR SENATE BILL NO. 86 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/10/91
Referred: Rules

Sponsor(s): SENATE RULES/LEGISLATIVE COUNCIL

A BILL

FOR AN ACT ENTITLED

1 "An Act making corrective amendments to the Alaska Statutes as recommended by the
2 revisor of statutes; and providing for an effective date."

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

4 * Section 1. AS 01.10.040 is amended by adding a new subsection to read:

5 (b) When the words "includes" or "including" are used in a law, they shall be construed
6 as though followed by the phrase "but not limited to."

7 * Sec. 2. AS 08.04.120 is amended to read:

8 Sec. 08.04.120. EDUCATIONAL AND EXPERIENCE REQUIREMENTS. An applicant
9 shall meet the following requirements of education and experience: [.]

10 (1) the [REPEALED

11 (2) AFTER APRIL 26, 1965, THE] educational requirement is (A) satisfactory
12 completion of two years of study at one or more colleges or universities recognized by the board,
13 or (B) graduation from a junior or community college in Alaska or otherwise recognized by the
14 board, or (C) the substantial equivalent of (A) or (B) of this paragraph; the [. THE] experience

1 requirement is four years of accounting experience satisfactory to the board; [.]

2 (2) [(3) AFTER APRIL 26, 1960,] the education and experience requirements may
3 also be satisfied by

4 (A) the satisfactory completion of four years of study with a
5 nonaccounting major at one or more colleges or universities recognized by the board, and
6 three years of accounting experience satisfactory to the board; [,] or

7 (B) the satisfactory completion of four years of study with an accounting
8 major at one or more colleges or universities recognized by the board, and two years of
9 accounting experience satisfactory to the board.

10 * Sec. 3. AS 08.84.065(a) is amended to read:

11 (a) The board may issue a nonrenewable temporary permit to an applicant for licensure
12 by acceptance of credentials or by examination who

13 (1) meets the requirements of

14 (A) AS 08.84.030(a)(1) or (b)(1); or

15 (B) AS 08.84.032(a)(2) and (4) or (b)(2) and (3); [AS 08.84.030(2) AND
16 08.84.032(2) AND (4)] and

17 (2) pays the required fee.

18 * Sec. 4. AS 08.88.460(a) is amended to read:

19 (a) A person seeking reimbursement for a loss suffered in a transaction as a result of
20 fraud, misrepresentation, deceit, or the conversion of trust funds on the part of a real estate
21 broker, associate real estate broker, or real estate salesman licensed under this chapter shall make
22 a claim to the commission for reimbursement on a form furnished by the commission. The form
23 shall be executed under penalty of unsworn falsification [PERJURY], and must
24 [INFORMATION REQUIRED TO BE SUPPLIED SHALL] include the following:

25 (1) the name and address of the real estate broker, associate real estate broker,
26 or real estate salesman;

27 (2) the amount of the alleged loss;

28 (3) the date or period of time during which the alleged loss occurred;

29 (4) the date upon which the alleged loss was discovered;

30 (5) the name and address of the claimant; and [OR]

31 (6) a [THE] general statement of facts relative to the claim [CLAIMANT].

1 * Sec. 5. AS 09.35.060 is amended to read:

2 Sec. 09.35.060. EXECUTION AFTER DEATH OF JUDGMENT DEBTOR. If the
3 judgment debtor dies after judgment, execution may be issued on the judgment in the manner and
4 with the effect as if the debtor were still living, except as provided in AS 13.16.505 [EXCEPT
5 THAT NO ACTION MAY BE TAKEN WITHIN SIX MONTHS FROM THE GRANTING OF
6 LETTERS TESTAMENTARY OR OF ADMINISTRATION UPON THE ESTATE OF THE
7 DECEASED WITHOUT LEAVE OF THE COURT HAVING JURISDICTION OVER THE
8 PROBATE OF THE ESTATE].

9 * Sec. 6. AS 12.30.030(b) is amended to read:

10 (b) When a court denies a motion under (a) of this section or conditions of release have
11 been imposed by the court having original jurisdiction over the offense, an appeal may be taken
12 to the court having appellate jurisdiction over the court denying the motion or imposing the
13 conditions subject to the applicable court rules [OF THE SUPREME COURT OF ALASKA,
14 AND THE DISTRICT COURT RULES OF CRIMINAL PROCEDURE]. The order of the lower
15 court shall be affirmed unless it is found that the lower court abused its discretion. If it is held
16 that the lower court did abuse its discretion, the appellate court may modify, vacate, set aside,
17 reverse, remand the action for further proceeding, or remand the action directing entry of the
18 appropriate order, which may include ordering the person to be released under AS 12.30.020(a).
19 The appeal shall be determined promptly.

20 * Sec. 7. AS 12.55.155(d)(6) is amended to read:

21 (6) in a conviction for assault under AS 11.41.200 - 11.41.220 [11.41.230], the
22 defendant acted with serious provocation from the victim;

23 * Sec. 8. AS 16.05.340(a)(17) is amended to read:

24 (17) Waterfowl conservation tag 5
25 (A) A person may not engage in waterfowl hunting without having the
26 current year's waterfowl tag in the person's actual possession, unless that person
27 (i) qualifies for a \$5 license fee under (6) of this subsection;
28 (ii) is a resident under the age of 16;
29 (iii) is 60 years of age or older and is [HAS BEEN] a resident
30 [FOR AT LEAST ONE YEAR];
31 (iv) is a disabled veteran eligible for a free license under

1 AS 16.05.341.

2 (B) The Board of Game shall by regulation exempt the requirement of a
3 waterfowl conservation tag for waterfowl hunting in areas of the state not likely to benefit
4 from programs described in AS 16.05.130(b)(2) - (4).

5 * Sec. 9. AS 16.05.450 is amended to read:

6 Sec. 16.05.450. ISSUANCE OF LICENSES. (a) The commissioner or an authorized
7 agent shall issue a crewmember fishing license under AS 16.05.480 to each qualified person who
8 files a written application at a place in the state designated by the commissioner, containing the
9 reasonable information required by the commissioner together with the required fee. The
10 application shall be simple in form and shall be executed by the applicant under the penalty of
11 unsworn falsification [PERJURY].

12 (b) The Commercial Fisheries Entry Commission shall issue a vessel license under
13 AS 16.05.490 to each qualified vessel for which a written application has been filed, at a place
14 in the state designated by the commission, containing the reasonable information required by the
15 commission together with the required fee. The application shall be simple in form and shall be
16 executed by the applicant under the penalty of unsworn falsification [PERJURY].

17 (c) Repealed

18 * Sec. 10. AS 21.09.070(c) is amended to read:

19 (c) After January 1, 1992 [JUNE 30, 1991], an insurer may not renew and continue its
20 certificate of authority unless the insurer possesses at least the basic capital or basic surplus, and
21 additional surplus required under this section.

22 * Sec. 11. AS 21.09.080(a) is amended to read:

23 (a) In order for a domestic insurer to renew and continue the insurer's certificate of
24 authority after January 1, 1992 [JUNE 30, 1991], the insurer must possess at least the basic
25 capital, basic guarantee surplus, and additional maintained surplus required under
26 AS 21.09.070(a).

27 * Sec. 12. AS 21.12.020(c) is amended to read:

28 (c) A reduction from liability, for reinsurance ceded to an assuming insurer not meeting
29 the requirements of (a) of this section, shall be allowed in an amount not exceeding the liabilities
30 carried by the ceding insurer. The reduction shall be equal to the amount of money held by or
31 on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a

1 reinsurance contract with the assuming insurer as security for the payment of obligations under
2 it, if [. IF] the security is held in the United States subject to withdrawal solely by, and under
3 the exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United
4 States financial institution. The [, THE] security must be in the form of

5 (1) cash;

6 (2) securities listed by the Securities Valuation Office of the National Association
7 of Insurance Commissioners that qualify as admitted assets under AS 21.21;

8 (3) clean, irrevocable, unconditional letters of credit issued or confirmed by a
9 qualified United States financial institution; letters of credit meeting applicable standards of issuer
10 acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing
11 or confirming institution's subsequent failure to meet applicable standards of issuer acceptability,
12 continue to be acceptable as security until their expiration, extension, renewal, modification, or
13 amendment, whichever occurs first; or

14 (4) other security acceptable to and approved in advance by the director.

15 * Sec. 13. AS 21.33.021(e) is amended to read:

16 (e) A plaintiff or complainant is not entitled to a judgment by default in an action, suit
17 or proceeding in which the process is served under this section unless there is compliance with
18 the Rules of Civil Procedure governing default judgments.

19 * Sec. 14. AS 28.10.161(a) is amended to read:

20 (a) The [EXCEPT AS PROVIDED IN AS 28.10.181(I), THE] department, upon
21 registering a vehicle, shall issue the owner one fully reflectorized registration plate for a trailer
22 or a motorcycle and two fully reflectorized registration plates for every other vehicle. Except
23 as specifically provided in AS 28.10.181, the plate or plates must remain with the vehicle as long
24 as the vehicle is subject to registration under this chapter.

25 * Sec. 15. AS 28.35.035(c) is amended to read:

26 (c) If a chemical test is administered to a person under (a) or (b) of this section, that
27 person is not subject to the penalties for refusal to submit to a chemical test provided by
28 AS 28.35.032 [AND 28.35.034].

29 * Sec. 16. AS 29.20.170 is amended to read:

30 Sec. 29.20.170. VACANCIES. The governing body may provide by ordinance the
31 manner in which a vacancy occurs in any elected office except the office of mayor or school

1 board member. Unless otherwise provided by ordinance, the governing body shall declare an
2 elective office, other than the office of mayor or school board member, vacant when the person
3 elected

4 (1) fails to qualify or take office within 30 days after election or appointment;

5 (2) is physically absent from the municipality for 90 consecutive days unless
6 excused by the governing body;

7 (3) resigns and the resignation is accepted;

8 (4) is physically or mentally unable to perform the duties of office as determined
9 by two-thirds vote of the governing body;

10 (5) is convicted of a felony or of an offense involving a violation of the oath of
11 office;

12 (6) is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds
13 of the members of the governing body concur in expelling the person elected;

14 (7) is convicted of a violation of AS 15.13;

15 (8) no longer physically resides in the municipality and the governing body by
16 two-thirds vote declares the seat vacant; **this paragraph does not apply to a member of the**
17 **governing body who forfeits office under AS 29.20.140(a);** or

18 (9) if a member of the governing body, misses three consecutive regular meetings
19 and is not excused.

20 * Sec. 17. AS 29.35.050(a) is amended to read:

21 (a) **Notwithstanding AS 29.35.200 - 29.35.220,** a [A] municipality may by ordinance

22 (1) provide for the establishment, maintenance, and operation of a system of
23 garbage and solid waste collection and disposal for the entire municipality, or for districts or
24 portions of it;

25 (2) require all persons in the municipality or district to use the system and to
26 dispose of their garbage and solid waste as provided in the ordinance;

27 (3) award contracts for collection and disposal, or provide for the collection and
28 disposal of garbage and solid waste by municipal officials and employees;

29 (4) pay for garbage and solid waste collection and disposal from available money;

30 (5) require property owners or occupants of premises to use the garbage and solid
31 waste collection and disposal system provided by the municipality;

1 (6) fix charges against the property owners or occupants of premises for the
2 collection and disposal; and

3 (7) provide penalties for violations of the ordinances.

4 * Sec. 18. AS 29.35.210(a) is amended to read:

5 (a) A second class borough may by ordinance exercise the following powers on a
6 nonareawide basis:

7 (1) provide transportation systems;

8 (2) regulate the offering for sale, exposure for sale, sale, use, or explosion of
9 fireworks;

10 (3) license, impound, and dispose of animals;

11 (4) subject to AS 29.35.050, provide garbage, solid waste, and septic waste
12 collection and disposal;

13 (5) provide air pollution control in accordance with AS 46.03.140 - 46.03.230;

14 (6) provide water pollution control;

15 (7) participate in federal or state loan programs for housing rehabilitation and
16 improvement for energy conservation;

17 (8) provide for economic development;

18 (9) provide for the acquisition and construction of local service roads and trails
19 under AS 19.30.111 - 19.30.251;

20 (10) establish an emergency services communication center under AS 29.35.130;

21 (11) subject to AS 28.01.010, regulate the licensing and operation of motor
22 vehicles and operators;

23 (12) engage in activities authorized under AS 29.47.460.

24 * Sec. 19. AS 34.40.120 is amended to read:

25 Sec. 34.40.120. "LAND" AND "ESTATE AND INTEREST IN LAND" DEFINED. The
26 term "land" as used in this chapter [AS 34.40.010 AND 34.40.070 - 34.40.130,] shall be
27 construed as coextensive in meaning with "lands, tenements, and hereditaments," and the term
28 "estate and interest in land" shall be construed to embrace every interest, freehold, and chattel,
29 legal and equitable, present and future, vested and contingent in land as defined in this section.

30 * Sec. 20. AS 34.40.130 is amended to read:

31 Sec. 34.40.130. "CONVEYANCE" DEFINED. The term "conveyance," as used in this

1 chapter [AS 34.40.010 AND 34.40.070 - 34.40.130], shall be construed to embrace every
2 instrument in writing except a last will and testament, of whatever form and by whatever name
3 it may be known in law, by which an estate or interest in land [LANDS] is created, aliened,
4 assigned, or surrendered.

5 * Sec. 21. AS 34.60.150(2) is amended to read:

6 (2) "displaced person" means any person who [, ON OR AFTER JANUARY 2,
7 1971] moves from real property, or moves personal property from real property, as a result of
8 the acquisition of the real property, in whole or in part, or as a result of the written order of the
9 state agency to vacate real property, for a program or project undertaken by the state agency, and
10 solely for the purpose of AS 34.60.040(a) and 34.60.090, as a result of the acquisition of, or as
11 a result of the written order of a state agency to vacate other real property on which the person
12 conducts a business or farm operation for the program or project;

13 * Sec. 22. AS 43.20.014(a) is amended to read:

14 (a) A taxpayer is allowed as a credit against the tax due under this chapter 50 percent
15 of cash contributions accepted for direct instruction, research, and educational support purposes,
16 including library and museum acquisitions, by an accredited, nonprofit, public or private, Alaska,
17 two- or four-year, college, [OR] university, or university foundation. The credit may not
18 exceed the lesser of 10 percent of the amount of tax due under this chapter or \$100,000. A
19 contribution claimed as a credit under this section may not be claimed as a credit under another
20 provision of this title. A deduction is not allowed under 26 U.S.C. 170, if the credit provided by
21 this section is claimed.

22 * Sec. 23. AS 43.23.005(a) is amended to read:

23 (a) An individual is eligible to receive one permanent fund dividend each year in an
24 amount to be determined under AS 43.23.025 if the individual applies to the department, and if

25 (1) on the date of application the individual is a state resident;

26 (2) the individual was a state resident for a period of at least 12 [24] consecutive
27 months immediately preceding April 1 of the current dividend year; and

28 (3) the individual has been physically present in the state at some time during the
29 period beginning July 1 two years before the date of application and ending on the date of
30 application.

31 * Sec. 24. AS 43.23.015(b) is amended to read:

1 (b) The department shall prescribe and furnish an application form for claiming a
2 permanent fund dividend. The application must contain a statement of eligibility and a
3 certification of residency in substantially the following form:

4 I certify that

5 () I am a state resident on the date of this application, I have been a state resident for
6 at least 12 [24] months immediately preceding April 1 of the current dividend year, and I have
7 been physically present in the State of Alaska at some time during the period beginning July 1
8 two years before the date of application and ending on the date of this application; or

9 () (name), the individual on whose behalf I am applying, is a state resident on the date
10 of this application, has been a state resident for at least 12 [24] months immediately preceding
11 April 1 of the current dividend year, and has been physically present in the State of Alaska at
12 some time during the period beginning July 1 two years before the date of application and ending
13 on the date of this application. I understand that a false claim of eligibility to obtain a permanent
14 fund dividend for myself or for another is a criminal offense, that if convicted I will forfeit future
15 dividends, and that I must repay all dividends that have been paid to me. I understand that if I
16 wilfully misrepresent, exercise gross negligence, or recklessly disregard a material fact regarding
17 my eligibility for a permanent fund dividend I will forfeit the dividend, be subject to a civil fine
18 of up to \$5,000, and lose my eligibility for the next five dividends. I understand that these
19 penalties are in addition to any criminal penalties imposed.

20 _____
21 (signature of individual, parent,
22 guardian, or other authorized
23 representative)

24 * Sec. 25. AS 43.50.080(a) is amended to read:

25 (a) On or before the last day of each calendar month a licensee shall file with the
26 department a return, under penalty of unsworn falsification [PERJURY], for each place of
27 business. The return shall state the number of cigarettes manufactured, imported, or acquired by
28 the licensee during the preceding calendar month, and other information which the department
29 requires. If a licensee ceases to import or acquire cigarettes, the licensee shall immediately file
30 with the department a return for the period ending with the cessation.

31 * Sec. 26. AS 43.55.019(a) is amended to read:

1 (a) A producer of oil or gas is allowed as a credit against the tax due under
2 AS 43.55.011 - 43.55.150 50 percent of cash contributions accepted for direct instruction,
3 research, and educational support purposes, including library and museum acquisitions, by an
4 accredited, nonprofit, public or private, Alaska, two- or four-year, college, [OR] university, or
5 university foundation. The credit may only be applied against the tax liability accruing during
6 the month the contribution is made. The credit may not exceed the lesser of 10 percent of the
7 amount of tax due under AS 43.55.011 - 43.55.150 or \$10,000. A contribution claimed as a credit
8 under this section may not be claimed as a credit under another provision of this title.

9 * Sec. 27. AS 43.56.018(a) is amended to read:

10 (a) The owner of property taxable under this chapter is allowed as a credit against the
11 tax due under this chapter 50 percent of cash contributions accepted for direct instruction,
12 research, and educational support purposes, including library and museum acquisitions, by an
13 accredited, nonprofit, public or private, Alaska, two- or four-year, college, [OR] university, or
14 university foundation. The credit may only be applied against the tax liability accruing during
15 the month the contribution is made. The credit may not exceed the lesser of 10 percent of the
16 amount of tax due under this chapter or \$10,000. A contribution claimed as a credit under this
17 section may not be claimed as a credit under another provision of this title.

18 * Sec. 28. AS 43.65.018(a) is amended to read:

19 (a) A person engaged in the business of mining in the state is allowed as a credit against
20 the tax due under this chapter 50 percent of cash contributions accepted for direct instruction,
21 research, and educational support purposes, including library and museum acquisitions, by an
22 accredited, nonprofit, public or private, Alaska, two- or four-year, college, [OR] university, or
23 university foundation. The credit may not exceed the lesser of 10 percent of the amount of tax
24 due under this chapter or \$100,000. A contribution claimed as a credit under this section may not
25 be claimed as a credit under another provision of this title.

26 * Sec. 29. AS 43.65.020(a) is amended to read:

27 (a) A person subject to tax under this chapter shall make a return stating specifically the
28 items of gross income from the property, including royalty received and the deductions and
29 credits allowed by this chapter, and other information for carrying out this chapter that the
30 department prescribes. The return must show the mining license number and must be signed by
31 the taxpayer or an authorized agent of the taxpayer, under penalty of unsworn falsification

1 [PERJURY]. If receivers, trustees, or assigns are operating the property or business, they shall
2 make returns for the person engaged in mining, or the recipient of royalty in connection with
3 mining property. The tax due on the basis of the returns shall be collected in the same manner
4 as if collected from the person of whose business they have custody and control.

5 * Sec. 30. AS 43.75.018(a) is amended to read:

6 (a) A person engaged in a fisheries business is allowed as a credit against the tax due
7 under this chapter 50 percent of cash contributions accepted for direct instruction, research, and
8 educational support purposes, including library and museum acquisitions, by an accredited,
9 nonprofit, public or private, Alaska, two- or four-year, college, [OR] university, or university
10 foundation. The credit may not exceed the lesser of 10 percent of the amount of tax due under
11 this chapter or \$100,000. A contribution claimed as a credit under this section may not be
12 claimed as a credit under another provision of this title.

13 * Sec. 31. AS 43.75.030(a) is amended to read:

14 (a) A person subject to the tax shall file a return stating the value of fisheries resources
15 processed during the license year, computed as required by this chapter, and such other
16 information as the department prescribes by regulation. The return must show the license number
17 and must be signed by the taxpayer or an authorized agent, under penalty of unsworn
18 falsification [PERJURY]. If a receiver, trustee, or assign is operating the property or business,
19 that person shall file the return for the person. A tax due on the basis of such a return shall be
20 collected in the same manner as if collected from the person of whose business the receiver,
21 trustee, or assign has custody and control.

22 * Sec. 32. AS 43.75.110 is amended to read:

23 Sec. 43.75.110. DUTY OF TAXPAYER AND PAYMENT OF TAX. A person subject
24 to taxes under AS 43.75.100 shall make a return stating the value of fisheries resources taken,
25 purchased, or otherwise acquired during the license year for sale to fisheries businesses outside
26 of the taxing jurisdiction of the state computed as required by AS 43.75.100, and other
27 information to carry out the provisions of AS 43.75.100 as may be prescribed by the department.
28 The return must contain the license number and must be signed by the taxpayer or an authorized
29 agent, under penalty of unsworn falsification [PERJURY]. If a receiver, trustee, or assign is
30 operating the property or business, that person shall make the return for the person. A tax due
31 on the basis of such return shall be collected in the same manner as if collected from the person

1 of whose business the receiver, trustee, or assign has custody and control. The requirements for
2 time and place of payment of tax, and the obligation to keep records and make the records
3 available to the commissioner are the same as those prescribed in AS 43.75.011 - 43.75.050.

4 * Sec. 33. AS 44.33.270(a) is amended to read:

5 (a) The commissioner of commerce and economic development may sell or transfer at
6 par value or at a premium to a bank or other private purchaser for cash or other consideration
7 the mortgages and notes held by the department as security for loans made under AS 44.33.240 -
8 44.33.275 [THIS CHAPTER].

9 * Sec. 34. AS 46.03.313(b) is amended to read:

10 (b) The [BY JULY 1, 1986, THE] department shall adopt regulations that

11 (1) interpret and clarify the factors listed in (a) of this section; and

12 (2) establish procedures for processing, reviewing, and approving or disapproving
13 applications for the siting and operation of privately owned hazardous waste management
14 facilities.

15 * Sec. 35. AS 46.03.313(d) is amended to read:

16 (d) The department shall hold public hearings in each election district in which a
17 hazardous waste management facility site is proposed to be located. The department shall give
18 reasonable public notice of the time, date, and place of each public hearing at least 30 days
19 before the hearing. The public shall be afforded an opportunity at each hearing to submit written
20 and oral testimony concerning a potential site. [THE DEPARTMENT SHALL CONSIDER THE
21 TESTIMONY SUBMITTED AT PUBLIC HEARINGS WHEN IT PREPARES REPORTS
22 UNDER AS 46.03.314.]

23 * Sec. 36. AS 47.45.010(a) is amended to read:

24 (a) A person who is 65 years of age or over, who resides in the state for at least one
25 year [TWO YEARS] immediately preceding application for a longevity bonus under this chapter,
26 may apply to the commissioner of administration for qualification to receive a monthly bonus of
27 \$250.

28 * Sec. 37. AS 34.03.360(9); AS 34.65.100(1); AS 43.20.310 and 43.20.320; AS 43.23.005(c);
29 AS 46.03.314; and AS 47.45.010(d) are repealed.

30 * Sec. 38. This Act takes effect immediately under AS 01.10.070(c).