

CS FOR SENATE BILL NO. 254 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/24/92
Referred: Finance

Sponsor(s): SENATE JUDICIARY 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 seizure of dividends for the collection of debts, to claims on a dividend, and
3 providing that claims on defaulted scholarship loans have third priority among claims
4 against a dividend; and providing for an effective date."

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

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

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

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

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

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

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

- 1 (5) benefits paid or payable as a longevity bonus under AS 47.45;
2 (6) compensation or benefits paid or payable and exempt under federal law;
3 (7) liquor licenses granted under AS 04;
4 (8) limited entry permits granted under AS 16.43, except as provided in that
5 chapter;
6 (9) tuition credits under an advance college tuition payment contract authorized
7 under AS 14.40.809(a);
8 (10) that portion of a permanent fund dividend exempted under
9 AS 43.23.065(a).

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

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

17 * Sec. 3. AS 43.23.065 is amended to read:

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

19 (a) Except as provided in (b) of this section, 45 percent of the annual permanent fund dividend
20 payable to an individual is exempt from levy, execution, garnishment, attachment, or any other
21 remedy for the collection of debt. This exemption applies to an eligible individual's permanent
22 fund dividend both before and after payment is made to the individual. No other exemption
23 applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that
24 has not been delivered to the debtor may be served on the commissioner by certified mail,
25 return receipt requested. Upon receipt of a writ by certified mail, return receipt requested,
26 the commissioner shall deliver that portion of the dividend executed upon to the court along
27 with the case name and number.

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;

2 (3) claims on defaulted scholarship loans under AS 43.23.067;

3 (4) court ordered fines;

4 (5) [OR (3)] a debt owed by an eligible individual to an agency of the state,
5 unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has
6 not expired.

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

10 * Sec. 4. AS 43.23.065 is amended by adding a new subsection to read:

11 (d) An assignment of or levy, execution, garnishment, attachment, or other remedy for
12 the collection of debt applied to a dividend for a year may not be accepted by the department
13 before April 1 of that same year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a
14 permanent fund dividend. The department shall include the case number with a dividend or
15 portion of a dividend transmitted to the court in response to a writ of execution or other court
16 order. At the time payment is made to the court, the department shall send to the individual at
17 the address provided in the individual's dividend application and to the court that issued the writ
18 or order a notice that contains

19 (1) notification that all or part of the individual's dividend has been seized under
20 a writ of execution or court order;

21 (2) the name and address of the court that issued the writ or order;

22 (3) the case number for which the writ or order was issued;

23 (4) the amount seized under the writ or order; and

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

26 * Sec. 5. AS 43.23.067(b) is amended to read:

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

31 (1) the amount of the claim; and

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

5 * Sec. 6. AS 43.23.067(c) is amended to read:

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

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