

HOUSE CS FOR CS FOR SENATE BILL NO. 327 (FINANCE) am H
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 3/25/92

Offered: 3/20/92

Sponsor(s): SENATORS CRAFT, Pourchot, Rodey, Sturgulewski, Zharoff, Duncan, Kerttula, Collins, Frank, Menard, Jones

REPRESENTATIVES Gruenberg, Boyer, Ulmer, Koponen, Sharp
 A BILL

FOR AN ACT ENTITLED

1 "An Act relating to permanent fund dividends; and providing for an effective date."

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

3 * Section 1. INTENT. The change to the definition of residency in sec. 16 of this Act only clarifies
 4 what the legislature has always intended the definition to be.

5 * Sec. 2. AS 34.45.720 is amended by adding a new subsection to read:

6 (c) AS 34.45.110 - 34.45.780 do not apply to a warrant for the payment of a permanent
 7 fund dividend.

8 * Sec. 3. AS 37.05.180 is amended to read:

9 Sec. 37.05.180. TWO-YEAR LIMITATION ON PAYMENT OF WARRANTS. A [NO]
 10 warrant upon the state treasury may not be [IS] paid unless presented at the office of the
 11 commissioner of revenue within two years of the date of its issuance. A warrant [ALL
 12 WARRANTS] not presented within that time is [ARE] considered paid and money held at the
 13 expiration of that time in a special fund or account for the payment of the warrant shall be
 14 transferred to the general fund, except where the warrant is for the payment of a permanent

1 **fund dividend** or where transfer is prohibited by the federal government for state participation
2 in a federal program.

3 * Sec. 4. AS 43.23.005(a) is amended to read:

4 (a) An individual is eligible to receive one permanent fund dividend each year in an
5 amount to be determined under AS 43.23.025 if

6 (1) the individual applies to the department;

7 (2) [, AND IF (1)] on the date of application the individual is a state resident;

8 (3) [(2)] the individual was a state resident for [A PERIOD OF] at least **the**
9 **calendar year** [12 CONSECUTIVE MONTHS] immediately preceding **January 1** [APRIL 1]
10 of the current dividend year; [AND]

11 (4) [(3)] the individual has been physically present in the state at some time
12 during the **prior** [PERIOD BEGINNING JULY 1] two **calendar** years before the **current**
13 **dividend year; and**

14 (5) **the individual is**

15 (A) **a citizen of the United States;**

16 (B) **an alien lawfully admitted for permanent residence in the United**
17 **States;**

18 (C) **an alien with refugee status under federal law; or**

19 (D) **an alien that has been granted asylum under federal law** [DATE
20 OF APPLICATION AND ENDING ON THE DATE OF APPLICATION].

21 * Sec. 5. AS 43.23.005(c) is amended to read:

22 (c) A parent, guardian, or other authorized representative may claim a permanent fund
23 dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent
24 individual who is eligible to receive a payment under this section. **Notwithstanding (a)(1) - (3)**
25 **of this section, a minor is eligible for a dividend if, during the 24 months immediately**
26 **preceding the current dividend year, the minor was born to or adopted by an individual**
27 **who is eligible for a dividend for the current dividend year.**

28 * Sec. 6. AS 43.23.005(c) is repealed and reenacted to read:

29 (c) A parent, guardian, or other authorized representative may claim a permanent fund
30 dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent
31 individual who is eligible to receive a payment under this section. Notwithstanding (a)(2) - (4)

1 of this section, a minor is eligible for a dividend if, during the two calendar years immediately
2 preceding the current dividend year, the minor was born to or adopted by an individual who is
3 eligible for a dividend for the current dividend year.

4 * Sec. 7. AS 43.23.005(d) is amended to read:

5 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual who has been
6 convicted of a felony is not eligible for a permanent fund dividend for a year when, during all
7 or part of the previous calendar year [FISCAL YEAR ENDING JUNE 30 OF THE CURRENT
8 YEAR], as a result of the conviction, the individual is incarcerated. [THIS SUBSECTION
9 APPLIES WHETHER OR NOT THE INDIVIDUAL HAS APPLIED FOR THE DIVIDEND.]

10 * Sec. 8. AS 43.23.005(f) is amended to read:

11 (f) In a time of national military emergency, the commissioner may waive the
12 requirement of (a)(4) [(a)(3)] of this section for an individual absent from the state under military
13 orders while serving in the armed forces of the United States, or for the spouse and dependents
14 of that individual.

15 * Sec. 9. AS 43.23 is amended by adding a new section to read:

16 Sec. 43.23.011. APPLICATION PERIOD. An application for a permanent fund dividend
17 shall be filed during the period that begins January 2 and ends March 31 of that dividend year.

18 * Sec. 10. AS 43.23.015(a) is amended to read:

19 (a) The commissioner shall adopt regulations under the Administrative Procedure Act
20 (AS 44.62) for determining the eligibility of individuals for permanent fund dividends. The
21 commissioner may require an individual to provide proof of eligibility, and the commissioner
22 may use other information available from other state departments or agencies to determine the
23 eligibility of an individual. The commissioner shall consider all relevant circumstances in
24 determining the eligibility of an individual. However, the residency of an individual's
25 spouse may not be the principal factor relied upon by the commissioner in determining the
26 residency of the individual.

27 * Sec. 11. AS 43.23.015(b) is amended to read:

28 (b) The department shall prescribe and furnish an application form for claiming a
29 permanent fund dividend. The application must include notice of the penalties provided for
30 under AS 43.23.035 and contain a statement of eligibility and a certification of residency. [IN
31 SUBSTANTIALLY THE FOLLOWING FORM:

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I CERTIFY THAT

() I AM A STATE RESIDENT ON THE DATE OF THIS APPLICATION, I HAVE BEEN A STATE RESIDENT FOR AT LEAST 12 MONTHS IMMEDIATELY PRECEDING APRIL 1 OF THE CURRENT DIVIDEND YEAR, AND I HAVE BEEN PHYSICALLY PRESENT IN THE STATE OF ALASKA AT SOME TIME DURING THE PERIOD BEGINNING JULY 1 TWO YEARS BEFORE THE DATE OF APPLICATION AND ENDING ON THE DATE OF THIS APPLICATION UNLESS THIS REQUIREMENT HAS BEEN WAIVED UNDER AS 43.23.005(f); OR

() (NAME), THE INDIVIDUAL ON WHOSE BEHALF I AM APPLYING, IS A STATE RESIDENT ON THE DATE OF THIS APPLICATION, HAS BEEN A STATE RESIDENT FOR AT LEAST 12 MONTHS IMMEDIATELY PRECEDING APRIL 1 OF THE CURRENT DIVIDEND YEAR, AND HAS BEEN PHYSICALLY PRESENT IN THE STATE OF ALASKA AT SOME TIME DURING THE PERIOD BEGINNING JULY 1 TWO YEARS BEFORE THE DATE OF APPLICATION AND ENDING ON THE DATE OF THIS APPLICATION UNLESS THIS REQUIREMENT HAS BEEN WAIVED UNDER AS 43.23.005(f).

I UNDERSTAND THAT A FALSE CLAIM OF ELIGIBILITY TO OBTAIN A PERMANENT FUND DIVIDEND FOR MYSELF OR FOR ANOTHER IS A CRIMINAL OFFENSE, THAT IF CONVICTED I WILL FORFEIT FUTURE DIVIDENDS, AND THAT I MUST REPAY ALL DIVIDENDS THAT HAVE BEEN PAID TO ME. I UNDERSTAND THAT IF I WILFULLY MISREPRESENT, EXERCISE GROSS NEGLIGENCE, OR RECKLESSLY DISREGARD A MATERIAL FACT REGARDING MY ELIGIBILITY FOR A PERMANENT FUND DIVIDEND I WILL FORFEIT THE DIVIDEND, BE SUBJECT TO A CIVIL FINE OF UP TO \$5,000, AND LOSE MY ELIGIBILITY FOR THE NEXT FIVE DIVIDENDS. I UNDERSTAND THAT THESE PENALTIES ARE IN ADDITION TO ANY CRIMINAL PENALTIES IMPOSED.

(SIGNATURE OF INDIVIDUAL,
PARENT, GUARDIAN, OR OTHER
AUTHORIZED REPRESENTATIVE)]

1 * **Sec. 12.** AS 43.23.035(b) is amended to read:

2 (b) If the commissioner determines that a permanent fund dividend should not have been
3 claimed by or paid to an individual, the commissioner may use all collection procedures or
4 remedies available for collection of taxes under this title to recover the payment of a permanent
5 fund dividend that was improperly made. A notice of an improperly paid dividend must be sent
6 to the individual within

7 (1) three years after the improper payment is sent; or

8 (2) six years after the improper payment is sent if the commissioner
9 determines that the individual exercised gross negligence or recklessly disregarded a
10 material fact in connection with a false statement made in an application [10 YEARS
11 AFTER THE IMPROPER PAYMENT. IF NOTICE IS NOT SENT WITHIN THE 10-YEAR
12 PERIOD, PROCEEDINGS MAY NOT BE COMMENCED IN COURT FOR RECOVERY OF
13 THE IMPROPER PAYMENT].

14 * **Sec. 13.** AS 43.23.035 is amended by adding a new subsection to read:

15 (d) If notice is not sent within the time required under (b) of this section, administrative
16 or judicial proceedings may not be commenced for recovery of an improperly paid dividend. The
17 time limitations of (b) of this section do not apply if a dividend is forfeited under (a) of this
18 section or if it is more probable than not that an individual has committed a crime in connection
19 with a false statement made in an application.

20 * **Sec. 14.** AS 43.23.055 is amended to read:

21 Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall

22 (1) annually pay permanent fund dividends from the dividend fund;

23 (2) subject to AS 43.23.011 and paragraph (8) of this section, adopt regulations
24 under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for
25 claiming a permanent fund dividend; the department shall determine [SET THE TIME LIMIT
26 FOR APPLICATIONS FOR PERMANENT FUND DIVIDENDS SO THAT] the number of
27 eligible applicants [IS DETERMINED] by October 1 of the year for which the dividend is
28 declared and pay the [PERMANENT FUND] dividends by December 31 of that year [FOR A
29 YEAR ARE PAID BEFORE APRIL 30 OF THE YEAR FOLLOWING THAT YEAR];

30 (3) adopt regulations under the Administrative Procedure Act (AS 44.62) that
31 establish procedures and time limits for an individual upon emancipation or upon reaching

1 majority to apply for permanent fund dividends not received during minority because the parent,
2 guardian, or other authorized representative did not apply on behalf of the individual;

3 (4) assist residents of the state, particularly in rural areas, who because of
4 language, disability, or inaccessibility to public transportation need assistance to establish
5 eligibility and to apply for permanent fund dividends;

6 (5) annually determine, in cooperation with the Department of Corrections, the
7 number and identity of individuals ineligible for a permanent fund dividend under
8 AS 43.23.005(d);

9 (6) adopt regulations that are necessary to implement AS 43.23.005(d);

10 (7) adopt regulations that establish procedures for the parent, guardian, or other
11 authorized representative of a disabled individual to apply for prior year permanent fund
12 dividends not received by the disabled individual because no application was submitted on behalf
13 of the individual;

14 **(8) adopt regulations that establish procedures for an individual to apply to**
15 **have a dividend warrant reissued if it is returned to the department as undeliverable or it**
16 **is not paid within two years of the date of its issuance; however, the department may not**
17 **establish a time limit within which an application to have a warrant reissued must be filed.**

18 * Sec. 15. AS 43.23 is amended by adding a new section to read:

19 Sec. 43.23.069. ASSIGNMENTS. (a) Except as provided in (b) of this section, a person
20 eligible to receive a permanent fund dividend may not assign the right to the dividend. An
21 attempted assignment of the right to receive a permanent fund dividend is against public policy
22 and is void.

23 (b) A person may assign the right to receive a permanent fund dividend to a federal,
24 state, or municipal government agency or to a court.

25 * Sec. 16. AS 43.23.095(8) is amended to read:

26 (8) "state resident" means an individual who is physically present in the state with
27 the intent to remain permanently in the state **under the requirements of AS 01.10.055** or, if the
28 individual is not physically present in the state, intends to return to the state **and remain**
29 **permanently in the state under the requirements of AS 01.10.055**, and is absent only for any
30 of the following reasons:

31 (A) vocational, professional, or other specific education for which a

- 1 comparable program was not reasonably available in the state;
- 2 (B) secondary or postsecondary education;
- 3 (C) military service;
- 4 (D) medical treatment;
- 5 (E) service in Congress;
- 6 (F) other reasons which the commissioner may establish by regulation; or
- 7 (G) service in the Peace Corps;

8 * Sec. 17. AS 43.23.095 is amended by adding a new subsection to read:

9 (b) For purposes of AS 43.23.069, "state agency" includes a regional housing authority
10 created under AS 18.55.996.

11 * Sec. 18. AS 43.23.005(b) is repealed.

12 * Sec. 19. APPLICATION PERIODS. (a) Notwithstanding permanent fund dividend application
13 procedures or deadlines, a parent, guardian, or other authorized representative of a minor who qualified
14 for a dividend for 1992 because of the amendment to AS 43.23.005(c), made in sec. 5 of this Act, may
15 apply on behalf of the minor for the dividend by December 31, 1992. Notwithstanding permanent fund
16 dividend application procedures or deadlines, an individual who qualified for a dividend for 1992
17 because of the amendment to AS 43.23.015(a), made in sec. 10 of this Act, may apply for the dividend
18 by September 30, 1992. The Department of Revenue shall prepare a form for applications under this
19 section.

20 (b) Notwithstanding AS 43.23.011, as added by sec. 9 of this Act, the application period for
21 1993 is the period that begins January 2, 1993, and ends June 30, 1993.

22 * Sec. 20. Sections 5 and 10 of this Act are retroactive to January 1, 1992.

23 * Sec. 21. Sections 1 - 3, 5, 10, 12, 13, 15 - 17, 19, and 20 of this Act take effect immediately under
24 AS 01.10.070(c).

25 * Sec. 22. Sections 4, 6 - 9, 11, 14, and 18 of this Act take effect January 1, 1993.