

CS FOR HOUSE BILL NO. 392(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/4/94

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVE PARNELL

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the confidentiality of permanent fund dividend application**
2 **information; relating to the permanent fund dividend program; and providing for**
3 **an effective date."**

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

5 *** Section 1. AS 14.43.120(i) is amended to read:**

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

11 *** Sec. 2. AS 43.23.005(a) is amended to read:**

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

14 (1) [THE INDIVIDUAL] applies to the department;

1 (2) [ON THE DATE OF APPLICATION THE INDIVIDUAL] is a
2 state resident on the date of application;

3 (3) [THE INDIVIDUAL] was a state resident for at least the calendar
4 year immediately preceding January 1 of the current dividend year;

5 (4) [THE INDIVIDUAL] has been physically present in the state at
6 some time during the prior two calendar years before the current dividend year; [AND]

7 (5) [THE INDIVIDUAL] is

8 (A) a citizen of the United States;

9 (B) an alien lawfully admitted for permanent residence in the
10 United States;

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

12 (D) an alien that has been granted asylum under federal law;

13 and

14 (6) was, during the entire period described in (3) of this subsection,
15 present in the state or, if absent, was absent only as allowed in AS 43.23.008.

16 * Sec. 3. AS 43.23.005(c) is amended to read:

17 (c) A parent, guardian, or other authorized representative who meets the
18 requirements of (a)(2) - (6) of this section may claim a permanent fund dividend on
19 behalf of an unemancipated minor or on behalf of a disabled or an incompetent
20 individual who is eligible to receive a payment under this section. Notwithstanding
21 (a)(2) - (4) of this section and AS 43.23.008(b), a minor who is otherwise eligible is
22 eligible for a dividend if, during the two calendar years immediately preceding the
23 current dividend year, the minor was born to or adopted by an individual who is
24 eligible for a dividend for the current dividend year.

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

26 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual
27 who has been convicted of a felony is not eligible for a permanent fund dividend for
28 a year when, during all or part of the previous calendar year, as a result of the
29 conviction, the individual is incarcerated. This subsection does not apply if the
30 felony conviction is reversed. An action taken under AS 12.55.085 - 12.55.110
31 does not constitute reversal of a conviction for purposes of this subsection.

1 * Sec. 5. AS 43.23 is amended by adding a new section to read:

2 Sec. 43.23.008. ALLOWABLE ABSENCES. (a) Subject to (b) and (c) of this
3 section, an otherwise eligible individual who is absent from the state during the
4 calendar year immediately preceding the current dividend year remains eligible for the
5 dividend if the individual was absent

6 (1) receiving full-time technical training as part of a career education
7 program recognized by the Alaska Commission on Postsecondary Education if the
8 commission informs the department that there is no comparable technical training
9 reasonably available in the state;

10 (2) attending full-time an academic institution, seminar, or other
11 program for continuing professional educational development, including a sabbatical,
12 legal, or accounting program, recognized by the Alaska Commission on Postsecondary
13 Education if the commission informs the department that there is no comparable
14 program reasonably available in the state;

15 (3) attending a special education program to assist in the treatment of
16 learning or physical disabilities or the treatment of mental disorders if attendance is
17 recommended by a licensed physician, psychologist, physical therapist, or the
18 commissioner of education, and if the commissioner of education informs the
19 department that there is no comparable special education program reasonably available
20 in the state;

21 (4) attending full-time at an educational institution in grades 7 through
22 12;

23 (5) attending full-time at an accredited college, university, or junior or
24 community college in a program leading to an associate, baccalaureate, or graduate
25 degree;

26 (6) serving on active duty as a member of the armed forces of the
27 United States;

28 (7) receiving continuous medical treatment recommended by a licensed
29 physician or convalescing as recommended by the physician that treated the illness if
30 the treatment or convalescence is not based on a need for climatic change;

31 (8) accompanying a minor who is absent under (7) of this subsection;

- 1 (9) serving as a member of the United States Congress;
2 (10) serving on the staff of a member of the United States Congress
3 from the state;
4 (11) serving as a full-time volunteer in the Peace Corps;
5 (12) serving as an employee of the state, including employment in a
6 field office;
7 (13) in the custody of the state;
8 (14) actively participating on a United States national athletic team as
9 an eligible athlete as defined by the International Federation and National Governing
10 Body for each nonprofessional sport;
11 (15) accompanying an eligible individual as the spouse, minor
12 dependent, or disabled dependent of the eligible individual;
13 (16) for a reason consistent with the individual's intent to remain a
14 resident, provided the absence or cumulative absences do not exceed
15 (A) 180 days if the individual is not claiming an absence under
16 (1) - (15) of this subsection and provided that the individual
17 (i) established the individual's principal home in this
18 state before leaving this state;
19 (ii) has not taken an action inconsistent with an intent
20 to maintain the individual's principal home in this state;
21 (iii) has not taken an action to establish or maintain a
22 principal home outside of this state;
23 (iv) returned to the individual's principal home in this
24 state at the conclusion of the absence;
25 (B) the greater of 90 days, one school semester during which
26 the individual was enrolled, or one school quarter during which the individual
27 was enrolled, in addition to any absence or cumulative absences claimed under
28 (1) or (5) of this subsection if the individual is not claiming any absence under
29 (2) - (4) or (6) - (15) of this subsection; or
30 (C) 45 days in addition to any absence or cumulative absences
31 claimed under (1) - (15) of this subsection.

1 (b) An individual who is otherwise eligible and who is absent for more than
2 180 days during the calendar year immediately preceding January 1 of the current
3 dividend year remains eligible for the dividend only if the individual was a resident
4 of the state for at least six consecutive months immediately before leaving the state.

5 (c) An individual is not eligible for a dividend if the individual was absent for
6 more than 180 days during the qualifying period

7 (1) under AS 43.23.005(a)(3) for that dividend; and

8 (2) for each of the five dividends immediately preceding that dividend,
9 excluding absences allowed under (a)(7) - (9) of this section and absences while
10 accompanying, as the spouse, minor dependent, or disabled dependent, an eligible
11 individual who is absent for a reason allowed under (a)(7) - (9) of this section.

12 * Sec. 6. AS 43.23.015(b) is amended to read:

13 (b) The department shall prescribe and furnish an application form for claiming
14 a permanent fund dividend. The application must include

15 (1) notice of the penalties provided for under AS 43.23.035; [AND
16 CONTAIN]

17 (2) a statement of eligibility and a certification of residency to be
18 signed by the applicant or appropriate representative if the application is filed
19 under AS 43.23.005(c) or 43.23.015(e); and

20 (3) a statement to be signed by

21 (A) two other people who can attest to the eligibility of the
22 applicant; or

23 (B) one other person who can attest to the eligibility of the
24 applicant if the application is filed under AS 43.23.005(c) or 43.23.015(e).

25 * Sec. 7. AS 43.23.035(a) is amended to read:

26 (a) In addition to any criminal penalties imposed by state law, if an individual
27 is convicted of a crime in connection with a false statement made in a certification
28 required under AS 43.23.015, and the conviction is not reversed, that individual forfeits
29 all permanent fund dividends paid and is not eligible for a future permanent fund
30 dividend. An action taken under AS 12.55.085 - 12.55.110 does not constitute
31 reversal of a conviction for purposes of this subsection.

1 * Sec. 8. AS 43.23.035(d) is amended to read:

2 (d) If notice is not sent within the time required under (b) of this section,
3 administrative or judicial proceedings may not be commenced for recovery of an
4 improperly paid dividend. The time limitations of (b) of this section do not apply

5 (1) to a duplicate payment of a dividend:

6 (2) if a dividend is forfeited under (a) of this section; or

7 (3) if it is more probable than not that an individual has committed a
8 crime in connection with a false statement made in an application.

9 * Sec. 9. AS 43.23.035 is amended by adding new subsections to read:

10 (e) Except as provided in (f) of this section, the department may not, during
11 the time in which an appeal may be filed or while an appeal is pending, pay a
12 dividend to an individual who, as a result of a proceeding under this section, owes
13 money to the state.

14 (f) The department shall pay to an individual who is not the subject of a
15 criminal investigation under this section any prior year dividend for which the
16 individual is eligible if, by September 30 of the year following the year for which the
17 dividend is declared, the

18 (1) individual has not exhausted the individual's appeal rights related
19 to the money owed to the state as a result of a proceeding under this section; and

20 (2) department has not issued a formal hearing decision affirming that
21 the individual owes money to the state as a result of a proceeding under this section.

22 * Sec. 10. AS 43.23.055 is amended to read:

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

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

25 (2) subject to AS 43.23.011 and paragraph (8) of this section, adopt
26 regulations under AS 44.62 (Administrative Procedure Act) that establish procedures
27 and time limits for claiming a permanent fund dividend and for providing missing
28 or additional information; the department shall determine the number of eligible
29 applicants by October 1 of the year for which the dividend is declared and pay the
30 dividends by December 31 of that year;

31 (3) adopt regulations under AS 44.62 (Administrative Procedure Act)

1 that establish procedures and time limits for an individual upon emancipation or upon
2 reaching majority to apply for permanent fund dividends not received during minority
3 because the parent, guardian, or other authorized representative did not apply on behalf
4 of the individual;

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

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

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

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

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

21 (9) adopt regulations establishing an optional longevity bonus program
22 to provide for the direct payment by the department of an individual's permanent fund
23 dividend to an annuity program selected by the individual.

24 * Sec. 11. AS 43.23.065(a) is amended to read:

25 (a) Except as provided in (b) of this section, 45 percent of an individual's
26 [THE ANNUAL] permanent fund dividend [PAYABLE TO AN INDIVIDUAL] is
27 exempt from levy, execution, garnishment, attachment, or any other remedy for the
28 collection of debt. This exemption applies to an eligible individual's permanent fund
29 dividend both before and after payment is made to the individual. No other exemption
30 applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend
31 that has not been delivered to the debtor may be served on the commissioner by

1 certified mail, return receipt requested. Upon receipt of a writ by certified mail, return
2 receipt requested, the commissioner shall deliver that portion of the dividend executed
3 upon to the court along with the case name and number.

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

5 (b) An exemption is not available under this section for permanent fund
6 dividends taken to satisfy

7 (1) amounts owed to the state under AS 43.23.035(a) or (b):

8 (2) child support obligations required by court order or decision of the
9 child support enforcement agency under AS 25.27.140 - 25.27.220;

10 (3) [(2)] court ordered restitution under AS 12.55.045 - 12.55.051 or
11 12.55.100;

12 (4) [(3)] claims on defaulted scholarship loans under AS 43.23.067;

13 (5) [(4)] court ordered fines; or

14 (6) [(5)] a debt, other than a debt under (1) - (5) of this subsection,
15 owed by an eligible individual to an agency of the state, unless the debt is contested
16 and an appeal is pending, or the time limit for filing an appeal has not expired.

17 * Sec. 13. AS 43.23.065(d) is amended to read:

18 (d) The department may not accept an [AN] assignment of a current year
19 dividend or a levy, execution, garnishment, attachment, or other remedy for the
20 collection of debt applied to a current year dividend [FOR A YEAR MAY NOT BE
21 ACCEPTED BY THE DEPARTMENT] before April 1 of the current dividend
22 [THAT SAME] year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a
23 permanent fund dividend. The department shall include the case number with a
24 dividend or portion of a dividend transmitted to the court in response to a writ of
25 execution or other court order. At the time payment is made to the court, the
26 department shall send to the individual at the address provided in the individual's
27 dividend application and to the court that issued the writ or order a notice that contains

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

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

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

1 (4) the amount seized under the writ or order, and
2 (5) notification that the individual has 30 days from the date the notice
3 is mailed in which to file with the court an objection to the seizure if a mistake has
4 been made.

5 * Sec. 14. AS 43.23.069(b) is amended to read:

6 (b) A person may assign the right to receive a permanent fund dividend to a
7 federal, state, or municipal government agency for a debt owed to or administered
8 by the agency or to a court for a debt owed to the court.

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

10 Sec. 43.23.089. RELEASE OF INFORMATION. (a) Except to the extent
11 required under AS 24.20.271 and AS 24.55.160 - 24.55.170 and as provided in this
12 section, information related to an individual's application or dividend, including a
13 dividend eligibility determination made by the department, is confidential. Except as
14 provided in (e) of this section, the department shall provide information related to an
15 individual's application or dividend to that individual upon the request of that
16 individual.

17 (b) The following information is subject to release by the department under the
18 following conditions:

19 (1) to any person who makes a written request and pays a fee set by
20 the department that does not exceed the actual cost of preparing and copying the
21 information, the names and mailing addresses of applicants;

22 (2) to the court system for use in developing a jury list under
23 AS 09.20.050, the names, mailing addresses, and birth dates of applicants who are 18
24 years old or older;

25 (3) to the division of elections at the discretion of the department for
26 use in voter registration drives, the names, mailing addresses, and birth dates of
27 applicants who are 18 years old or older;

28 (4) to a municipality, the state, or the federal government at the
29 discretion of the department, information for use in the collection of money owed to
30 the requesting government or for use in an investigation by the requesting government;

31 (5) to a process server at the discretion of the department, information

1 related to payments made by the department to the process server;

2 (6) to a person who has filed an application on behalf of another
3 individual, information regarding the eligibility status of that individual;

4 (7) to the office of a legislator or the governor, information regarding
5 an application filed by an individual if the individual has requested assistance from the
6 legislator or the governor in a matter concerning the application.

7 (c) Notwithstanding (b) of this section, the department may release information
8 regarding a bank, credit union, savings and loan, or other financial account of an
9 individual only if the department

10 (1) receives authorization from the individual to release the information;

11 (2) receives a court order directing that the information be released;

12 (3) receives a request from a municipality, the state, or the federal
13 government and the information is sought in connection with a criminal investigation
14 by the requesting government; or

15 (4) makes use of the information to recover an improperly paid
16 dividend or a penalty under AS 43.23.035.

17 (d) The department shall release on request of an adult or emancipated minor
18 information pertaining to all applications filed with the application of the requestor.

19 (e) Notwithstanding other provisions of law and except as required by court
20 order, if an individual who provides the department with information that might
21 disqualify another individual from receiving a dividend requests nondisclosure, the
22 department may not disclose the identity of the individual who provides the
23 information.

24 * Sec. 16. AS 43.23.095 is amended to read:

25 Sec. 43.23.095. DEFINITIONS. In this chapter,

26 (1) "Alaska permanent fund" means the fund established by art. IX,
27 sec. 15 of the state constitution;

28 (2) [REPEALED

29 (3) REPEALED

30 (4)] "disabled" means physically or mentally unable to complete and
31 sign an application due to a serious emotional disturbance, visual, orthopedic, or other

1 health impairment, or developmental disability that is attributable to mental retardation,
2 cerebral palsy, epilepsy, autism or other cause; "disabled" does not mean
3 "incompetent";

4 (3) [(5)] "dividend fund" means the fund established by AS 43.23.045;

5 (4) [(6)] "individual" means a natural person;

6 (5) [(7)] "permanent fund dividend" means a right to receive a payment
7 from the dividend fund;

8 (6) [(8)] "state resident" means an individual who is physically present
9 in the state with the intent to remain permanently in the state under the requirements
10 of AS 01.10.055 or, if the individual is not physically present in the state, maintains
11 and demonstrates at all times an intent [INTENDS] to return to the state to [AND]
12 remain permanently in the state under the requirements of AS 01.10.055 [, AND IS
13 ABSENT ONLY FOR ANY OF THE FOLLOWING REASONS:

14 (A) VOCATIONAL, PROFESSIONAL, OR OTHER SPECIFIC
15 EDUCATION FOR WHICH A COMPARABLE PROGRAM WAS NOT
16 REASONABLY AVAILABLE IN THE STATE;

17 (B) SECONDARY OR POSTSECONDARY EDUCATION;

18 (C) MILITARY SERVICE;

19 (D) MEDICAL TREATMENT;

20 (E) SERVICE IN CONGRESS;

21 (F) OTHER REASONS WHICH THE COMMISSIONER MAY
22 ESTABLISH BY REGULATION; OR

23 (G) SERVICE IN THE PEACE CORPS;

24 (9) "YEAR" MEANS A CALENDAR YEAR].

25 * Sec. 17. PERMANENT FUND DIVIDENDS FOR CERTAIN SPOUSES AND
26 DEPENDENTS. Notwithstanding the provision in AS 43.23.015(a) that the residency of an
27 individual's spouse may not be the principal factor relied upon in determining the residency
28 of the individual, an otherwise eligible individual who applied for a 1992 or 1993 permanent
29 fund dividend within the time prescribed by law is eligible for the dividend even if the
30 individual was absent from the state while accompanying as the spouse, minor dependent, or
31 disabled dependent another person who was absent for a reason permitted under former

1 AS 43.23.095(8) and was eligible for that dividend.

2 * Sec. 18. Sections 1 - 3, 5, 6, 10 - 14, and 16 of this Act are retroactive to January 1,
3 1994.

4 * Sec. 19. Sections 1 - 3, 5, 6, and 8 - 18 of this Act take effect immediately under
5 AS 01.10.070(c).

6 * Sec. 20. Sections 4 and 7 of this Act take effect January 1, 1995.