

HB

56

See also:

LAA file

7900300

JH 3/5/84



House Judiciary Comte
 Re: HB 56
 FYI

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ALASKA STATE LEGISLATURE
 POUCH Y - STATE CAPITOL
 JUNEAU, ALASKA 99811
 (907) 465-4878

EXECUTIVE SECRETARY
 BILLY G. BERRIER

October 10, 1978

M E M O R A N D U M

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SUBJECT: Revision of State Exemptions Law
 TO: Representative Mike Miller
 Chairman, Alaska Legislative Council
 FROM: John Abbott, Chairman
 Code Revision Commission

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Pursuant to the authority granted in AS 24.20.075(c), the Code Revision Commission has reviewed that portion of the Alaska Statutes which provides protection for certain property of an individual from seizure by creditors to enforce the payment of an unsecured debt. The commission has determined that the exemption laws of the state are out of date and do not provide adequate protection for property in the possession of an individual which is necessary to provide the basic necessities of life for the individual and his family. In addition, Congress has been considering bills which would dramatically revise the bankruptcy laws of the United States. The bankruptcy law revision is significant because the exemptions provided under the state law of the petitioner's domicile are applied by the bankruptcy courts. As a result of this congressional consideration of the bankruptcy laws, the National Conference of Commissioners on Uniform State Laws (NCCUSL) has prepared and presented for consideration by the states a uniform exemptions act. The NCCUSL has stated that the area of exemptions law is one of the few for which the plea for uniformity is most appropriate. The Commission utilized the uniform exemptions act as a guide in preparing and recommending for your consideration, the Alaska Exemptions Act. The Act

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contains the basic structure of the uniform act with amendments relating to specific items and increases in the value of some exemptions with a value limit. The Alaska Exemptions Act increases the value of the homestead exemptions by allowing the aggregation of homestead exemptions held by joint owners of the residence. The act also provides for exemptions of property with a value limitation, property exempt without a value limit, exemption of unmaturred life insurance, and establishes procedures which specify how debtors and creditors may exercise rights conferred under the act.

Representative Mike Miller
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The Code Revision Commission has attempted to present suggested legislation which balances the often-competing interests of both debtors and creditors. Creditors need simple and inexpensive procedures for collecting unsecured debts while debtors must have protection for their property so that they are not deprived of property which supplies the basic necessities of life or be required to seek public assistance benefits. The Alaska Exemptions Act includes a procedure for garnishment which would end the current practice of obtaining a writ of garnishment of wages. Seasonally employed individuals are afforded protection from garnishment of their earnings in a way that permits the exercise of an exemption for funds accumulated during the work season over the entire year. The Act also has an automatic cost of living provision which provides for the adjustment of dollar amounts based on increases or decreases in the Anchorage metropolitan area cost of living index. This provision is intended to avoid the necessity for continuing legislative oversight of value limit exemptions provided in the Act.

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The Code Revision Commission has prepared and included an official text of the act with commentary as an aid during your detailed consideration of this suggested legislation.

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cc: John C. Doyle, Executive Director
Legislative Affairs Agency

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