

HA B

74

re. rights of debtors & creditors

HB 17
Code Revision
Commission

Notification OK

Judiciary CS raises the exempted
amounts in several cases

Barnes will carry

Homestead exemption -

can trace property & keep it
exempt - sell it, get
cash, keep it exempt -
clocksin - extend from 3 to 6 mos.

- NO -

continuing lien -

but it saves legal expenses
now, to garnish wages, have to
do it every pay period - bill
would make it you'd not care.
makes justice swifter. saves
creditor \$\$

figures came from 1975

technical changes in CS, - put back in
original bill -

yes

make child support exempt when it's
in the hands of the mother - it's
she food's money

COMMITTEE REPORT

HOUSE

3/17
Rules

FURTHER:

2/4/81

(7)

Date: Apr. 16 81

Mr. Speaker:

The Committee on JUDICIARY has had HB 74

"An Act relating to the rights of debtors and creditors."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 74 (Judiciary) same title
 new title
 and ^{may} recommends it do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation zero 1 w/analysis
- referred to the _____ Suppl. C 26
Committee

MEMBERS SIGNING
DO PASS

Charles Anderson
Buchholz
ROBERT PELL D. Pass
Lanora B. Barnes

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Freeman No Rec

Lanora B. Barnes
 CHAIRMAN

AMENDMENT

#1

OFFERED IN THE HOUSE:

By: Clockwin

To: CS HOUSE BILL No. 74 (Jud)

SENATE BILL No. _____

PAGE: 6

LINE: 5

after "maintenance" insert ", except that
child support required by court order is
excluded from this section."

AMENDMENT

#2

OFFERED IN THE HOUSE:

By: Clocksin

To: CS

HOUSE BILL No. 74 (Jud)

SENATE BILL No. _____

PAGE: 6

LINE: 16

delete from p. 6, line ~~11~~¹⁶ through p. 7,
line 19.

AMENDMENT

#3

OFFERED IN THE HOUSE:

By: Clackson

To: CS HOUSE BILL No. 74 (Jud)

SENATE BILL No. _____

PAGE: 8

LINE: 21

change "three" to "six"

AMENDMENT

#4

OFFERED IN THE HOUSE:

BY: Clocksin

To: CS HOUSE BILL No. 74 (Jud)

SENATE BILL No. _____

PAGE: 9

LINE: ~~8~~ 7

On line 7, delete "; or "

On line 8, delete "(C) state or
local taxes "

AMENDMENT

#5

OFFERED IN THE HOUSE:

By: Clocksie

To: CS HOUSE BILL No. 74 (Jud)

SENATE BILL No. _____

PAGE: 14

LINE: 5

before " AS 09.38.080(c) " insert

" AS 09.38.075(b) " and "

AMENDMENT

#6

OFFERED IN THE HOUSE:

By: Clocksin

To: C-5 HOUSE BILL No. 74 (Jud)

SENATE BILL No. _____

PAGE: 14

LINE: 16

after "property," insert "changing
venue,"

AMENDMENT

OFFERED IN THE HOUSE:

BY: Moss + Buchholdt

TO: CS

HOUSE BILL No. 74 (Judiciary)

SENATE BILL No. _____

PAGE: 3, 4

LINE: _____

Page 3, line 22 delete \$2,000, replace with ~~\$2,000~~ \$3,500;

Page 4, line 2 delete \$700, replace with ~~\$700~~ \$1,000;

Page 4, line 4, delete \$1,400, replace with ~~\$1,400~~ \$5,000;

Page 4, line 8, delete ~~\$4,300~~ \$4,300, replace with ~~\$4,300~~ \$1,000

MEMORANDUM

TO: Billy Berrier, Director
Division of Legal Services

FROM: Rep. Jack Fuller, Chairman
House Rules Committee

DATE: March 30, 1982

A draft Rules Committee Substitute for CSHB 74 has been prepared by your office. The Rules Committee has adopted that CS with the following changes:

Page 1, lines 26 and 28: change \$40,000 to \$27,000.

Page 3, lines 9 and 10: DELETE (9) child support paid or required to be paid under court order.

Page 4, line 4: Keep the amount at \$1,400, as in the Judiciary CS.

Please prepare a final Rules CS incorporating these changes.

Thank you.

CODE REVISION COMMISSION



HB 74

COMMISSIONERS
 JOHN W. ABBOTT - CHAIRMAN
 SUSAN A. BURKE - VICE CHAIRMAN
 PATRICK M. RODEY
 FRED E. BROWN
 L.S. KURTZ, JR.
 WM. GRANT CALLOW

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

EXECUTIVE SECRETARY
 BILLY G. BERRIER

MEMORANDUM

TO: Chairman, Alaska Legislative Council

FROM: John W. Abbott, Chairman *John W. Abbott*
 Alaska Code Revision Commission

DATE: January 9, 1981

RE: Revision of State Exemptions Law

Pursuant to the authority granted in AS 24.20.075(c), the Alaska 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 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 unmaturing life insurance, and establishes procedures which specify how debtors and creditors may exercise rights conferred under the Act.

The Alaska 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.

The Alaska 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.

This Act was submitted to the Eleventh Legislature as House Bill No. 56.

JWA:bgb:chw

cc: Hon. Jay S. Hammond, Governor
Hon. Jay A. Rabinowitz, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

Attachments

MEMORANDUM

TO:

Joseph K. Donohue
Deputy Commissioner - Taxation
Department of Revenue

DATE :

March 22, 1982

FROM:

Marilla L. Gemmer
Director
Enforcement Division

SUBJECT:

Committee
Substitute for
House Bill 74

The Enforcement Division would not have any problem if CSHB 74 were to be enacted. The right to levy against exempt property under AS 09.35.080(b)(2)(C) which would be repealed by CSHB 74, would be preserved under 09.38.030(c) and 09.38.065(a)(1)(C).

There would be no additional costs.

NOTE: A new Sec. 15 should be added to CSHB 74 as follows:

Sec. 15. AS 43.20.270 is amended to read:

Sec. 43.20.270. DISTRAINT ON PROPERTY. (b) Notwithstanding the provisions of AS 09.35.070, 09.38.010-09.38.020 (-09.35.090) or any other provision of law exempting property from execution, only the following property, if it belongs to the head of a family, is exempt from distraint and sale under this chapter:

Sec. 16. Sec. 15 as it currently appears on CSHB 74 would now become Sec. 16.

MLG:lw

cc: Art Peterson
Assistant Attorney General
Department of Law

Changes between CSHB 74 (Judiciary) and proposed CSHB 74 (Rules)

Draft CSHB 74 (Rules) includes the following amendments to the original bill that are now in the Judiciary substitute:

- (1) the amendment to the original bill that would retain the exemption of liquor licenses and limited entry permits without substantive change from existing law;
- (2) technical amendments to correct an error in the repealer and to reflect a change in the name of the consumer price index;
- (3) the adjustments for inflation of only the homestead exemption and the wage exemption (based on the 43 percent increase in the Anchorage consumer prices index since the bill was originally drafted in December, 1977).

Draft CSHB 74 (Rules) does not include the balance of the Judiciary Committee's markup of figures in the original bill.

Draft CSHB 74 (Rules) contains the following changes that were not in the Judiciary substitute:

- (1) clarifying that child support paid to or required to be paid by, the judgment debtor under court order is exempt;
- (2) extending the period in which proceeds of the voluntary sale of a homestead are exempt from three to six months;
- (3) requiring that a notice of rights be served on the judgment debtor along with an order temporarily restraining him from disposing of his exempt property;
- (4) requiring notice of procedures for seeking a change of venue;
- (5) reducing the exemption for pets from \$4,300 to \$500.

Clocksini's amendments -
adopted w/ the changes marked

Amendments to CSHB 74 (Judiciary)

Page 3, line 8: Change period to semicolon.

~~Page 3, following line 8:~~

Insert "(9) child support paid or required to be paid under court order."

Page 3, line 22: Change "\$2,000" to "\$1,500".

Page 4, line 2: Change "\$700" to "\$500".

Page 4, line 4: Change "\$1,400" to "\$1,000". No-keep at 1,400

Page 4, line 8: Change "\$4,300" to "\$500".

Page 4, line 10: Change "\$2,100" to "\$1,500".

Page 4, line 11: Change "\$14,500" to "\$10,000".

Page 4, line 16: Change "\$7,200" to "\$5,000".

Page 6, line 4: Delete "support,".

Page 8, line 5: Change "\$200" to "\$275".

Page 8, line 7: Change "\$800" to "\$1,100".

Page 8, line 21: Change "three" to "six".

Page 11, line 14: Delete "and".

Page 11, line 16: Change period to comma.

Page 11, following line 16: Insert "(D) of the information required by AS 09.38.085(a)".

Page 14, line 5: Before "AS 09.38.080(c)" insert "AS 09.-38.075(b) and".

Page 14, line 16: After "property" insert "changing venue,".

plus: page 1, lines 26 + 28 - change
\$40,000 to \$27,000 (O'Connell + Phillips
wanted this)

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 26, 1982

The Honorable John G. Fuller
Chairman
House Rules Committee
Room 204 - Capitol Building
Juneau, Alaska

Dear Mr. Fuller:

Re: CS for House Bill No. 74 (Judiciary)

CS for House Bill No. 74 (Judiciary), an Act relating to the rights of debtors and creditors, was referred on March 17, 1982 by the House Judiciary Committee to the House Rules Committee.

Subsequently, on March 24, 1982 the House by floor vote failed to adopt CS for House Bill No. 74 (Judiciary) and House Bill No. 74 was returned to the House Rules Committee.

For the consideration of the House Rules Committee, I am enclosing copies of Fiscal Notes prepared by Ms. Marilla L. Gemmer, Director Enforcement Division and Mr. Dan R. Copeland, Director, Child Support Enforcement of the Department of Revenue concerning the Committee Substitute and suggesting certain amendments.

Sincerely,



R. D. Stevenson
Special Assistant

Enclosures

cc: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Marilla L. Gemmer, Director
Enforcement Division
Department of Revenue

Dan R. Copeland, Director
Child Enforcement Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 74
 Title Relating to the rights of debtors and creditors
 Requested by House Rules Committee Date 3/22/82

II FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection & Management
 BRU, Program, Or Subprogram(s) Affected Enforcement Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	NONE					

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See attached memorandum from Marilla L. Gemmer to Joseph K. Donohue.

Marilla L. Gemmer

IV. DATE 3/22/82

PREPARED BY Marilla L. Gemmer, Director

AGENCY Department of Revenue - Enforcement Division

PHONE 465-2366

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

MEMORANDUM


TO:

Joseph K. Donohue
Deputy Commissioner - Taxation
Department of Revenue

DATE :

March 22, 1982

FROM:

Marilla L. Gemmer 
Director
Enforcement Division

SUBJECT:

Committee
Substitute for
House Bill 74

The Enforcement Division would not have any problem if CSHB 74 were to be enacted. The right to levy against exempt property under AS 09.35.080(b)(2)(C) which would be repealed by CSHB 74, would be preserved under 09.38.030(c) and 09.38.065(a)(1)(C).

There would be no additional costs.

NOTE: A new Sec. 15 should be added to CSHB 74 as follows:

Sec. 15. AS 43.20.270 is amended to read:

Sec. 43.20.270. DISTRAINT ON PROPERTY. (b) Notwithstanding the provisions of AS 09.35.070, 09.38.010-09.38.020 (-09.35.090) or any other provision of law exempting property from execution, only the following property, if it belongs to the head of a family, is exempt from distraint and sale under this chapter:

Sec. 16. Sec. 15 as it currently appears on CSHB 74 would now become Sec. 16.

MLG:lw

cc: Art Peterson
Assistant Attorney General
Department of Law

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 74 (Jud)
 Title "An Act relating to the Rights of debtors and creditors"
 Requested by Home Rules Date 3/18/82

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, Or Subprogram(s) Affected Child Support Enforcement Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						
	None					

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
None						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						
None						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Statutes affecting child support enforcement AS 09.65.132(g) and AS 47.23.250(i) include references to sections of current law (AS 09.35) which section 14 of HB 74 moves to repeal. These references exempt certain child support enforcement actions from the restrictions from execution by judgment debtors under AS 09.35 and impose specific restrictions for child support actions. Language in HB 74 under AS 09.38.065 presents every indication that child support enforcement should continue to maintain this exemption.

With the reference changes from AS 09.35 to AS 09.38 in both AS 09.65.132(g) and AS 47.23.250(i), the child support agency and the obligor should experience the benefits of the procedures for execution on judgments. Without the reference changes the child support agency would experience additional legal expense in executing on judgments where two sets of requirements and restrictions are in effect.

IV. DATE 3/27/82

PREPARED BY Dan R Copeland

AGENCY Child Support Enforcement - Dept. of Revenue

Original: Legislative Finance

PHONE 276-3441

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 74 (Jud)
 Title "An Act relating to the Rights of debtors and creditors"
 Requested by Home Rules Date 3/18/82

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, Or Subprogram(s) Affected Child Support Enforcement Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	None					

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
None						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						
None						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Statutes affecting child support enforcement AS 09.65.132(g) and AS 47.23.250(i) include references to sections of current law (AS 09.35) which section 14 of HB 74 moves to repeal. These references exempt certain child support enforcement actions from the restrictions from execution by judgment debtors under AS 09.35 and impose specific restrictions for child support actions. Language in HB 74 under AS 09.38.065 presents every indication that child support enforcement should continue to maintain this exemption.

With the reference changes from AS 09.35 to AS 09.38 in both AS 09.65.132(g) and AS 47.23.250(i), the child support agency and the obligor should experience the benefits of the procedures for execution on judgments. Without the reference changes the child support agency would experience additional legal expense in executing on judgments where two sets of requirements and restrictions are in effect.

IV. DATE 3/27/82 PREPARED BY Dan R Copeland
 AGENCY Child Support Enforcement - Dept. of Revenue
 Original: Legislative Finance PHONE 276-3441
 cc: Budget and Management
Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

Suppl. 26

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill #74
Title "An Act relating to the Rights of debtors and creditors"
Requested by Representative Barnes Date 2/18/82

II. FISCAL DETAIL

Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, Or Subprogram(s) Affected Child Support Enforcement Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						
	NONE					

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	NONE					

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						
	NONE					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Statutes affecting child support enforcement AS 09.65.132(g) and AS 47.23.250(i) include references to sections of current law (AS 09.35) which section 14 of HB 74 moves to repeal. These references exempt certain child support enforcement actions from the restrictions from execution by judgment debtors under AS 09.35 and impose specific restrictions for child support actions. Language in HB 74 under AS 09.38.065 presents every indication that child support enforcement should continue to maintain this exemption.

With the reference changes from AS 09.35 to AS 09.38 in both AS 09.65.132(g) and AS 17.23.250(i), the child support agency and the obligor should experience the benefits of the procedures for execution on judgments. Without the reference changes the child support agency would experience additional legal expense in executing on judgments where two sets of requirements and restrictions are in effect.

IV. DATE 2/18/82 PREPARED BY Dan R Copeland
AGENCY Child Support Enforcement - Dept. of Revenue
Original: Legislative Finance PHONE 276-3441
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 74

Title An Act relating to the rights of debtors and creditors

Requested by House Judiciary Committee

Date 2/5/82

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection & Management

BRU, Program, or Subprogram(s) Affected Enforcement Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

NONE

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memo.

IV. DATE February 5, 1982

PREPARED BY Marilla L. Gemmer

AGENCY Department of Revenue

PHONE 465-2366

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB-74
 Title An act relating to the rights of debtors and creditors.
 Requested by Rules Committee Date 2/11/81

II. FISCAL DETAIL
 Agency Affected Department of Commerce and Economic Development
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Division of Insurance
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 2/11/81 PREPARED BY Kenneth C. Moore, Director
 AGENCY Division of Insurance
 PHONE 465-2515
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 74

Title "An act relating to the rights of debtors and creditors."

Requested by Repr. Barnes, House Judiciary

Date Feb. 22, 1982

II. FISCAL DETAIL

Agency Affected Department of Law

Program Category Affected General Government

BRU, Program, Or Subprogram(s) Affected Legal Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	Ø	Ø	Ø	Ø	Ø	Ø

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	Ø	Ø	Ø	Ø	Ø	Ø
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	Ø	Ø	Ø	Ø	Ø	Ø
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill will not have a financial impact on the department's operations.

IV. DATE February 22, 1982

PREPARED BY Richard I. Pecues, Director, Admin. Svcs.

AGENCY Department of Law

PHONE 465-3672

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

Richard I. Pecues

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 74
 Title Relating to the rights of debtors and creditors
 Requested by House Rules Committee Date 3/22/82

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection & Management
 BRU, Program, Or Subprogram(s) Affected Enforcement Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	NONE					

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
POSITIONS	NONE					

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See attached memorandum from Marilla L. Gemmer to Joseph K. Donohue.

Marilla L. Gemmer

IV. DATE 3/22/82 PREPARED BY Marilla L. Gemmer, Director
 AGENCY Department of Revenue - Enforcement Division
 Original: Legislative Finance PHONE 465-2366
 cc: Budget and Management
Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

AMENDED TITLE:

AN ACT RELATING TO THE RIGHTS OF DEBTORS AND CREDITORS

PRIME SPONSOR: HOUSE RULES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 3/17/82 IN (H) RULES

HE 74 HOUSE ACTION

DATE SEQ PAGE

LEGISLATIVE ACTION

02/04/81	01	0151
02/04/81	02	0151
03/17/82	01	0811
03/17/82	04	0811

FIRST READING -- COMMITTEE REPORTS
 LETTER OF INTENT
 JUD -- CS04, NR01
 ZERO F/NOTES/ANALYSIS HSE SUPPL #26
 RULES
 RULES

**** ** ** *** ** *

ALASKA CODE REVISION COMMISSION



COMMISSIONERS
JOHN W. ABBOTT - CHAIRMAN
JAMES L. BALDWIN - VICE CHAIRMAN
PATRICK M. ROUEY
CHARLES G. ANDERSON
L. S. KURTZ, JR.
JUDGE (RE:) THOMAS B. STEWART

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

EXECUTIVE SECRETARY
BILLY G. BERRIER

MEMORANDUM

TO: Senator Bob Mulcahy, Chairman
Senate Labor and Commerce Committee

FROM: Dickerson Regan, Consultant
Alaska Code Revision Commission *Dick Regan*

DATE: April 28, 1982

RE: CSHB 74 (Rls) am (Exemption Act)

Previously I have sent you materials on CSHB 74 (Rls) am. What I sent probably was in such detail that it could not be digested.

House committees and staff over the past two years spent a lot of time with the bill. Most of that time was spent in becoming familiar with the subject matter. With my memorandum to you dated April 15, 1982, I enclosed some analysis of House changes.

The House changes left the essential features of the bill intact. The bill does three important things.

(1) It adjusts for inflation the two most basic protections of the judgment debtor, i.e., the minimum earnings that are protected and the minimum value of a home that is protected.

(2) It provides for indexing exemptions to changes in the cost-of-living index, thereby keeping protections at the same level in terms of real value and avoiding the need for periodic adjustment by the legislature.

(3) It provides for a continuing garnishment of wages to pay off a court judgment. Both under existing law and under terms of the CSHB 74 (Rls) am, a judgment creditor may follow procedures to require the employer of a judgment debtor to withhold and pay over the unprotected part of the wages the employer owes to that judgment debtor. By existing law this costly and frictional procedure must be repeated each pay period until the judgment is satisfied. By terms of the bill

Senator Bob Mulcahy
April 28, 1982
Page 2

once the judgment holder has had the required notice (garnishment) served, it continues in effect each successive pay period until the judgment is paid. This avoids a source of much frustration to the judgment creditor and a source of expense to the judgment debtor since costs of collection are added to the judgment he must pay.

I did not work with the code revision commission on drafting of the bill. However, I have become quite familiar with it. As I became familiar with it I recognized it to be well drafted and helpful legislation. And I have seen those legislators and staff members in the House who were able to study the details of the bill become supporters of it, regardless of their political persuasion.

Time threatens to run out on the bill. I understand Senator Rodey has suggested it be waived over to Judiciary. I hope you will follow this or some other means to move the bill along.

DR:chw

ALASKA CODE REVISION COMMISSION



COMMISSIONERS
JOHN W. ABBOTT - CHAIRMAN
JAMES L. BALDWIN - VICE CHAIRMAN
PATRICK M. RODEY
CHARLES G. ANDERSON
L. S. KURTZ, JR.
JUDGE (RET.) THOMAS B. STEWART

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

EXECUTIVE SECRETARY
BILLY G. BARRIER

MEMORANDUM

TO: Senator Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
ATTN: Michael Thill, A.A.

FROM: Dickerson Regan, Consultant
Alaska Code Revision Commission *Jack Regan*

DATE: April 15, 1982

RE: CSHB 74 (Rls) am--Debtor and Creditor

Quite extensive committee work was done on HB 74 (debtor and creditor) in the House, and I hope the bill can be moved rapidly through the Senate.

Both Jim Baldwin, who worked as draftsman on the bill, and I will be happy to respond to your committee's questions.

Attached are (1) a statement on the general background of the bill, (2) the Baldwin commentary for the original bill, marked with the changed section numbers, (3) a review of the changes from that bill as they appear in CSHB 74 (Rls) am, and (4) the changes by page and line.

The code revision commission's office telephone is 465-4878. Jim Baldwin is now in the Department of Law, telephone 465-3600.

DR:chw

Attachments

Background on CSHB 74 (Rls) am on Debtor and Creditor

CSHB 74 (Rules) deals with the nature and extent of a judgment debtor's rights as against the rights of a judgment creditor. It is often referred to as the "exemptions" bill since it defines what minimum property of a debtor is exempt from seizure and sale to satisfy a judgment. It also contains (1) procedures designed to be relatively simple for the creditor while assuring protection of the debtor's rights, and (2) an indexing of the dollar amounts of exemptions to the fluctuation of the consumer price index, thereby avoiding the need for frequent adjustments by the legislature.

Attached is a commentary that was drawn by Jim Baldwin, the Legislative Affairs Agency draftsman who worked with the code revision commission on the bill. (Baldwin is now the executive department representative on the commission. However, when the bill was drafted in 1977 he was not in a policy position with regard to the content of the bill.)

The bill was introduced in the 1979 legislative session as HB 56. It is basically a workaday procedural and cleanup bill; it had no active constituency either pushing it or opposing it, and it was not scheduled for committee hearings in the 1979 or 1980 sessions.

The bill was reintroduced in the 1981 legislature as HB 74. It was given staff work and committee hearings in the House Judiciary Committee in 1981 and was given more work and hearings by the reconstituted Judiciary Committee in 1982, resulting in a Judiciary CS bill that included figures marked-up for inflation and changed the bill's treatment of liquor licenses and limited entry permits so as to leave the exemption of these licenses and permits just as it is in existing law. There was no significant difference between the treatment given the bill by the House Judiciary Committee as constituted in 1981 and the treatment given the bill by the reconstituted committee in 1982.

The Rules Committee passed out the Judiciary substitute, but some of the figures were challenged on the floor, the Judiciary substitute was rejected, and the bill was returned to Rules.

By this point there were a core of representatives of differing political persuasions who thought the basic bill worth saving. Since the numbers (the dollar amounts) in the bill seemed to be the sticking points, the Rules Committee got out a substitute bill, mainly adjusting the dollar amounts. In outline these adjustments were a markup for inflation of only the two basic exemption figures--the homestead exemption and the wage exemption--leaving most of the other figures unchanged.

In the file of the code revision commission and in the file of the House committees there is correspondence which follows through the processing of the bill in the House.

Changes of HB 74 appearing in CSHB 74 (Rls) am

CSHB 74 (Rls) am includes a floor amendment that was not in either the Judiciary substitute or the Rules substitute: It eliminates from the bill a provision that would have placed alimony and separate maintenance payments in a category of claim against which no exemption applies.

CSHB 74 (Rls) am includes the following amendments to the original bill that are also in the Judiciary substitute and the Rules substitute:

(1) an amendment of the original bill that would retain the exemption of liquor licenses and limited entry permits without substantive change from existing law;

(2) technical amendments to correct an error in the repealer and to reflect a change in the name of the consumer price index;

(3) adjustments for inflation of (a) the basic homestead exemption, (b) the exemption for tools of trade, and (c) the wage exemption. The adjustments are based on the 43 percent increase in the Anchorage consumer price index since the bill was originally drafted in December, 1977.

CSHB 74 (Rls) am does not include the balance of the Judiciary Committee's markup of figures in the original bill. It marks down an exemption for pets from \$3,000 to \$500, and eliminates a provision of the original bill that would have given a larger exemption when a home is owned jointly or by the entirety.

CSHB 74 (Rls) am contains the following additional changes that were not in the Judiciary substitute:

(1) eliminating a provision of the original bill lumping the exemption of child support with certain other exemptions that are treated as an aggregate, the effect being to leave child support as it is treated in existing law;

(2) extending the period in which proceeds of the voluntary sale of a homestead are exempt from three to six months;

(3) requiring that a notice of rights be served on the judgment debtor along with an order temporarily restraining him from disposing of his exempt property;

(4) requiring notice of procedures for seeking a change of venue;

The foregoing changes are made by page-and-line amendments to HB 74 shown on the attached sheet.

Amendments to HB 74 appearing in CSHB 74 (R1s) am

- Page 1, line 20: Change "\$19,000" to \$27,000"
- Page 1, lines 26 and 28: Change \$28,000" to \$27,000"
- Page 4, line 5: Change \$1,000" to "\$1,400"
- Page 4, line 9: Change \$4,300" to "\$500"
- Page 6, line 5: Delete "support,"
- Page 8, line 6: Change "\$200" to "\$275"
- Page 8, line 8: Change "\$800" to "\$1,100"
- Page 8, lines 11-13: Delete the sentence starting on line 11
- Page 9, line 8: (A) delete "alimony,"
insert "child"
- After "support"
Delete ", or separate maintenance"
- Page 11, line 11: Delete "and"
- Page 11, line 20: Change period to comma
- Page 11, following line 20: Insert "(D) of the information required by AS 09.38.085(a)."
- Page 14, line 9: Before "AS 09.38.080(c)" insert "AS 09.38.075(b) and"
- Page 14, line 20: After "property" insert "changing venue,"
- Page 16, line 13: After "for" insert "All Urban Consumers for"
- Page 16, line 14: After "Area" delete "Consumer Price Index"
- Page 16, line 16: Change "November" to "January"
Delete "preceding the year"
- Page 22, line 12: After "09.35.050" change the comma to a semicolon
- Page 22, line 13: Change "AS 21.42.320--21.42.350" to "AS 21.42.320--21.42.340, AS 21.-42.350"

HB 52

amendment moved - Sec. 6
Sec. 3. move to delete —

HB 74

leave Judiciary changes, but cut back amounts
→ revised versions of 4 of the 6 orig. am

p. 4 l. 6 back to 1400

p. 8 l. 23 ~~5-3~~, go back to 3 mos.

moved RLS. CS, except delete 0.9+10, p. 3

child support

p. 4, l. 4 keep at 1400

p. 1 l. 26 + 28 change 40 to 27