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SENATE COMMITTEE REPORT

FURTHER

DATE TURNED INTO OFFICE 5/3/88

4/25/88
Mr. President:

FINANCE Committee considered SB 508

property exemptions for certain retirement plan interests and payments

and recommended

replace with CS SB 508 (Finance) same title
 or adopt CS new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO PASS

Jim Duncan
Dan Gish
[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS

Paul T. Zahoff No Rec
Dolma B. Budge No Rec
[Signature]
[Signature]
[Signature]
Rick Halford do pass

Chairman signature and recommendation

Committee Backup attached

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: _____
 Title: Property exemptions for BRU: _____
homesteads, retirement plan interest & payments
 Sponsor: Senate Judiciary Committee Components: _____
 Requestor: Senate Finance Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Rick Halford

Prepared by: _____
 Division: Senator Rick Halford, Co-chairman
Senate Finance Committee

Phone: 465-4958
 Date: May 3, 1988

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

5-2123T
Bannister
5/3/88

Original sponsor: Judiciary Committee

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 508 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to property exemptions for
7 homesteads, for certain retirement plan interests and
8 payments, and for other property."

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

10 * Section 1. AS 09.38.010(a) is amended to read:

11 (a) An individual is entitled to an exemption as a homestead of
12 the individual's interest in property in this state used as the prin-
13 cipal residence of the [THAT] individual or the dependents of the
14 [THAT] individual, but the value of the homestead exemption may not
15 exceed \$54,000 [\$27,000].

16 * Sec. 2. AS 09.38.010(b) is amended to read:

17 (b) If property owned by the entirety or in common is used by
18 one or more individual owners or their dependents as their principal
19 residence, each owner is entitled to a homestead exemption of that
20 owner's interest in the property as provided in (a) of this section.
21 The aggregate value of multiple homestead exemptions allowable with
22 respect to a single living unit may not exceed \$54,000 [\$27,000]. If
23 there are multiple owners of property exempt as a homestead, the value
24 of the exemption of each individual owner may not exceed the [THAT]
25 individual owner's pro rata portion of \$54,000 [\$27,000].

26 * Sec. 3. AS 09.38 is amended by adding a new section to read:

27 Sec. 09.38.017. EXEMPTION OF RETIREMENT PLAN INTERESTS AND PAY-
28 MENTS. (a) In addition to the exemption under AS 09.38.015(b), the
29 following are exempt from a claim of an individual's creditor:

1 (1) the interest of the individual in a retirement plan;
2 and

3 (2) the money or other assets payable to the individual
4 from a retirement plan.

5 (b) The exemptions provided by (a) of this section do not apply
6 to a contribution made by an individual to a retirement plan within
7 120 days before the individual files for bankruptcy.

8 (c) The exemptions provided by (a) of this section do not pre-
9 vent the payment of benefits under a retirement plan to an alternate
10 payee under a qualified domestic relations order. In this subsection,
11 "qualified domestic relations order" has the meaning given in 26
12 U.S.C. 414(p).

13 (d) A retirement plan exempt from claims under (a) of this
14 section is conclusively presumed to be a spendthrift trust under this
15 section.

16 (e) In this section,

17 (1) "alternate payee" has the meaning given in 26 U.S.C.
18 414(p)(8);

19 (2) "individual" means an individual who is a participant
20 in, a beneficiary of, or an alternate payee of a retirement plan;

21 (3) "retirement plan" means a retirement plan that is
22 qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b),
23 26 U.S.C. 408, or 26 U.S.C. 409 (Internal Revenue Code).

24 * Sec. 4. AS 09.38.020 is amended to read:

25 Sec. 09.38.020. EXEMPTIONS OF PERSONAL PROPERTY SUBJECT TO VALUE
26 LIMITATIONS. (a) An individual is entitled to an exemption in prop-
27 erty not to exceed an aggregate value of \$3,000 [\$1,500] chosen by the
28 individual from the following categories of property:

29 (1) household goods and wearing apparel reasonably

1 necessary for one household;

2 (2) if reasonably held for the personal use of the indi-
3 vidual or a dependent, books and musical instruments; and

4 (3) family portraits and heirlooms of particular senti-
5 mental value to the individual.

6 (b) An individual is entitled to exemption of jewelry, not
7 exceeding \$1,000 [\$500] in aggregate value, if held for the personal
8 use of the individual or a dependent.

9 (c) An individual is entitled to exemption, not exceeding \$2,800
10 [\$1,400] in aggregate value, of implements, professional books, and
11 tools of the trade.

12 (d) An individual is entitled to the exemption of pets to the
13 extent of a value not exceeding \$1,000 [\$500].

14 (e) An individual is entitled to an exemption of one motor
15 vehicle to the extent of a value not exceeding \$3,000 [\$1,500] if the
16 full value of the motor vehicle does not exceed \$20,000 [\$10,000].

17 * Sec. 5. AS 09.38.025(a) is amended to read:

18 (a) Except as provided in this section or AS 09.38.017, an
19 individual is entitled to exemption of unmatured life insurance and
20 annuity contracts owned by the individual. If the contracts have
21 accrued dividends and loan values available to the individual ag-
22 gregating more than \$10,000 [\$5,000], a creditor may obtain a court
23 order requiring the individual debtor to pay the creditor, and author-
24 izing the creditor on the debtor's behalf to obtain payment of, the
25 amount of the accrued dividends and loan values in excess of \$10,000
26 [\$5,000] or the amount of the creditor's claim, whichever is less.

27 * Sec. 6. AS 09.38.030(a) is amended to read:

28 (a) Except as provided in (b) and (c) of this section and
29 AS 09.38.050, an individual debtor is entitled to an exemption of the

1 individual debtor's weekly net earnings not to exceed \$350 [\$175].
2 The weekly net earnings of an individual are determined by subtracting
3 from the weekly gross earnings all sums required by law or court order
4 to be withheld. The weekly net earnings of an individual paid on a
5 monthly basis are determined by subtracting from the monthly gross
6 earnings of the individual all sums required by law or court order to
7 be withheld and dividing the remainder by 4.3. The weekly net earn-
8 ings of an individual paid on a semi-monthly basis are determined by
9 subtracting from the semi-monthly gross earnings all sums required by
10 law or court order to be withheld and dividing the remainder by 2.17.

11 * Sec. 7. AS 09.38.030(b) is amended to read:

12 (b) An individual who does not receive earnings either weekly,
13 semi-monthly or monthly is entitled to a maximum exemption for the
14 aggregate value of cash and other liquid assets available in any month
15 of \$1,400 [\$700], except as provided in AS 09.38.050. The term "liq-
16 uid assets" includes deposits, securities, notes, drafts, accrued
17 vacation pay, refunds, prepayments, and receivables.

18 * Sec. 8. AS 09.38.030(e) is amended to read:

19 (e) The following property, unless exempt without limitation
20 under AS 09.38.015 or 09.38.017, upon receipt by and while it is in
21 the possession of the individual, shall be treated as earnings, in-
22 come, cash, or other liquid assets under this section:

23 (1) benefits paid by reason of disability, illness, or
24 unemployment;

25 (2) money or property received for alimony or separate
26 maintenance;

27 (3) proceeds of insurance, a judgment, or a settlement, or
28 other rights accruing as a result of bodily injury of the individual
29 or of the wrongful death or bodily injury of another individual of

1 whom the individual was or is a dependent;

2 (4) proceeds or benefits paid or payable on the death of an
3 insured, if the individual was the spouse or a dependent of the in-
4 sured; and

5 (5) amounts paid under a stock bonus, pension, profit-
6 sharing, annuity, or similar plan or contract, providing benefits by
7 reason of age, illness, disability, or length of service.

8 * Sec. 9. AS 09.38.050(b) is amended to read:

9 (b) The exemption amounts under AS 09.38.030 may be increased
10 when the individual submits an affidavit, under penalty of perjury,
11 stating that the individual's earnings alone support the individual's
12 household; by so doing, the maximum part of the individual's aggregate
13 disposable earnings for any week subject to execution may not exceed
14 the amount by which the individual's disposable earnings for that week
15 exceed \$550 [\$275], or, if the individual is claiming an exemption for
16 cash or other liquid assets under AS 09.38.030(b), a maximum amount of
17 \$2,200 [\$1,100] available in a [ANY] month is exempt.

18 * Sec. 10. AS 09.38.055 is amended to read:

19 Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under
20 11 U.S.C. (Bankruptcy) [THE BANKRUPTCY ACT (11 U.S.C.)] only the
21 exemptions under AS 09.38.010, 09.38.015(a), 09.38.017, 09.38.020,
22 09.38.025 and 09.38.030 apply.

23 * Sec. 11. AS 09.38.017, added by sec. 3 of this Act, does not apply to
24 the assets of a bankruptcy estate in a proceeding filed under 11 U.S.C.
25 (Bankruptcy) before the effective date of this Act.
26
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Original sponsor: Judiciary Committee

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 508 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to property exemptions for home-
7 steads and for certain retirement plan interests and
8 payments."

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

10 * Section 1. AS 09.38.010 is repealed and reenacted to read:

11 (a) A homestead is exempt from seizure for the claims of credi-
12 tors except for encumbrances properly established on the property.
13 Encumbrances may not be properly established on the homestead except
14 for

15 (1) the purchase price of the property;

16 (2) municipal ad valorem property taxation;

17 (3) workers' and material liens for improvements to the
18 property if contracted for in writing before the labor was performed
19 or material was furnished.

20 (b) In this section, "homestead" means an individual's interest
21 in property being used as the principal residence of the individual,
22 not exceeding one acre in size, and including improvements to or on
23 the property.

24 * Sec. 2. AS 09.38 is amended by adding a new section to read:

25 Sec. 09.38.017. EXEMPTION OF RETIREMENT PLAN INTERESTS AND PAY-
26 MENTS. (a) In addition to the exemption under AS 09.38.015(b), the
27 following are exempt from a claim of an individual's creditor:

28 (1) the interest of the individual in a retirement plan;

29 and

1 (2) the money or other assets payable to the individual
2 from a retirement plan.

3 (b) The exemptions provided by (a) of this section do not apply
4 to a contribution made by an individual to a retirement plan within
5 120 days before the individual files for bankruptcy.

6 (c) The exemptions provided by (a) of this section do not pre-
7 vent the payment of benefits under a retirement plan to an alternate
8 payee under a qualified domestic relations order. In this subsection,
9 "qualified domestic relations order" has the meaning given in 26
10 U.S.C. 414(p).

11 (d) A retirement plan exempt from claims under (a) of this
12 section is conclusively presumed to be a spendthrift trust under this
13 section.

14 (e) In this section,

15 (1) "alternate payee" has the meaning given in 26 U.S.C.
16 414(p)(8);

17 (2) "individual" means an individual who is a participant
18 in, a beneficiary of, or an alternate payee of a retirement plan;

19 (3) "retirement plan" means a retirement plan that is
20 qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b),
21 26 U.S.C. 408, or 26 U.S.C. 409 (Internal Revenue Code).

22 * Sec. 3. AS 09.38.025(a) is amended to read:

23 (a) Except as provided in this section or AS 09.38.017, an
24 individual is entitled to exemption of unmatured life insurance and
25 annuity contracts owned by the individual. If the contracts have
26 accrued dividends and loan values available to the individual ag-
27 gregating more than \$5,000, a creditor may obtain a court order re-
28 quiring the individual debtor to pay the creditor, and authorizing the
29 creditor on the debtor's behalf to obtain payment of, the amount of

1 the accrued dividends and loan values in excess of \$5,000 or the
2 amount of the creditor's claim, whichever is less.

3 * Sec. 4. AS 09.38.030(e) is amended to read:

4 (e) The following property, unless exempt without limitation
5 under AS 09.38.015 or 09.38.017, upon receipt by and while it is in
6 the possession of the individual, shall be treated as earnings, in-
7 come, cash, or other liquid assets under this section:

8 (1) benefits paid by reason of disability, illness, or
9 unemployment;

10 (2) money or property received for alimony or separate
11 maintenance;

12 (3) proceeds of insurance, a judgment, or a settlement, or
13 other rights accruing as a result of bodily injury of the individual
14 or of the wrongful death or bodily injury of another individual of
15 whom the individual was or is a dependent;

16 (4) proceeds or benefits paid or payable on the death of an
17 insured, if the individual was the spouse or a dependent of the in-
18 sured; and

19 (5) amounts paid under a stock bonus, pension, profit-
20 sharing, annuity, or similar plan or contract, providing benefits by
21 reason of age, illness, disability, or length of service.

22 * Sec. 5. AS 09.38.055 is amended to read:

23 Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under
24 11 U.S.C. (Bankruptcy) [THE BANKRUPTCY ACT (11 U.S.C.)] only the
25 exemptions under AS 09.38.010, 09.38.015(a), 09.38.017, 09.38.020,
26 09.38.025 and 09.38.030 apply.

27 * Sec. 6. AS 09.38.060(a) is amended to read:

28 (a) If property, or a part of it, that could have been claimed
29 as an exempt homestead under AS 09.38.010, a burial plot under

1 AS 09.38.015(a)(1), a health aid under AS 09.38.015(a)(2), or personal
2 property subject to a value limitation under AS 09.38.020(a)(1), or
3 (2) or 09.38.020(c), has been taken or sold by condemnation, or has
4 been lost, damaged, or destroyed and the owner has been indemnified
5 for it, the individual is entitled to an exemption of proceeds that
6 are traceable for 12 months after the proceeds are received. An indi-
7 vidual is entitled to an exemption of proceeds from the voluntary sale
8 of an exempt homestead under AS 09.38.010 that are traceable for six
9 months after the proceeds are received. The exemption of proceeds
10 under this subsection does not entitle the individual to claim an
11 aggregate exemption in excess of value of the exempt homestead and the
12 value limitation otherwise allowable under AS 09.38.020 [AS 09.38.010
13 OR 09.38.020].

14 * Sec. 7. AS 09.38.065(a) is amended to read:

15 (a) Notwithstanding other provisions of this chapter except
16 AS 09.38.010,

17 (1) a creditor may make a levy against exempt property of
18 any kind to enforce a claim for

19 (A) child support;

20 (B) unpaid earnings of up to one month's compensation
21 or the full-time equivalent of one month's compensation for
22 personal services of an employee; or

23 (C) state or local taxes; and

24 (2) a creditor may make a levy against exempt property to
25 enforce a claim for

26 (A) the purchase price of the property or a loan made
27 for the express purpose of enabling an individual to purchase the
28 property and used for that purpose;

29 (B) labor or materials furnished to make, repair,

1 improve, preserve, store, or transport the property; and

2 (C) a special assessment imposed to defray costs of a
3 public improvement benefiting the property.

4 * Sec. 8. AS 09.38.065(b) is amended to read:

5 (b) Except as provided in AS 09.38.070 limiting the enforcement
6 of certain security interests and in AS 09.38.010, this chapter does
7 not affect any statutory lien or security interest in exempt property.

8 * Sec. 9. AS 09.38.105 is amended to read:

9 Sec. 09.38.105. WAIVER OF EXEMPTION. A waiver of exemption
10 executed in favor of an unsecured creditor before levy on an individu-
11 al's property is unenforceable, but a valid security interest may be
12 given in exempt property, except that a valid security interest may
13 not be given by an individual in the individual's homestead unless the
14 security interest is an encumbrance allowed under AS 09.38.010.

15 * Sec. 10. AS 34.08.470(b) is amended to read:

16 (b) A lien under this section is prior to all other liens and
17 encumbrances on a unit except (1) a lien and encumbrance recorded
18 before the recordation of the declaration and, in a cooperative, a
19 lien and encumbrance which the association creates, assumes, or takes
20 subject to; (2) a first security interest on the unit recorded before
21 the date on which the assessment sought to be enforced became delin-
22 quent, or, in a cooperative, the first security interest encumbering
23 only the interest of the unit owner and perfected before the date on
24 which the assessment sought to be enforced became delinquent; and (3)
25 a lien for real estate taxes and other governmental assessments or
26 charges against the unit or cooperative. A lien under this section is
27 also prior to all security interests described in (2) of this subsec-
28 tion if the common expense assessments based on the periodic budget
29 adopted by the association under AS 34.08.460(a) would have become due

1 in the absence of acceleration during the six months immediately
2 preceding institution of an action to enforce the lien. This subsec-
3 tion does not affect the priority of a mechanic's or materialman's
4 lien, or the priority of a lien for other assessments made by the
5 association. [A LIEN UNDER THIS SECTION IS NOT SUBJECT TO THE PRO-
6 VISIONS OF AS 09.38.010.]

7 * Sec. 11. AS 09.38.017, added by sec. 2 of this Act, does not apply to
8 the assets of a bankruptcy estate in a proceeding filed under 11 U.S.C.
9 (Bankruptcy) before the effective date of this Act.
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5-2123L ✓
Bannister
4/28/88

Original sponsor: Judiciary Committee

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 508 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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6 For an Act entitled: "An Act relating to property exemptions for home-
7 steads and for certain retirement plan interests and
8 payments."

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

10 * Section 1. AS 09.38.010(a) is amended to read:

11 (a) An individual is entitled to an exemption as a homestead of
12 the individual's interest in property in this state used as the prin-
13 cipal residence of that individual or the dependents of that individu-
14 al except for encumbrances properly established on the property.

15 Encumbrances may not be established on the property except

16 (1) by the seller for the purchase price of the property;

17 (2) for municipal ad valorem property taxation;

18 (3) for workers' and material liens for improvements to the
19 property if contracted for in writing before the labor was performed
20 or material was furnished [, BUT THE VALUE OF THE HOMESTEAD EXEMPTION
21 MAY NOT EXCEED \$27,000].

22 * Sec. 2. AS 09.38.010(c) is amended to read:

23 (c) If property that includes a homestead is sold under an
24 execution, the sale becomes effective upon confirmation by order of
25 the court. The court shall enter the order of confirmation unless,
26 within 60 days after the sale, the individual repurchases the property
27 under this section or the court extends the time for confirmation upon
28 the filing of a timely motion by a party in interest. The individual
29 may repurchase property, including that individual's homestead, at a

1 sale on execution before confirmation by paying into court the costs
2 of the sale plus the amount of claim authorized under (a) of this
3 section [LESSER OF EITHER (1) THE DIFFERENCE BETWEEN THE HIGHEST BID
4 AND THE AMOUNT OF THE EXEMPTION IN THE PROPERTY, OR (2) THE AMOUNT OF
5 THE CREDITOR'S CLAIM]. If the individual does not exercise the repur-
6 chase right under this subsection, the clerk of the court shall first
7 remit an amount determined to be exempt to the individual from the
8 proceeds of sale and the balance less the cost of the sale to the
9 creditor. For the purpose of collecting an amount remaining unpaid on
10 a judgment after repurchase of property by an individual under this
11 subsection, the creditor or the creditor's assignee may not make
12 another levy on the property repurchased.

13 * Sec. 3. AS 09.38.010 is amended by adding a new subsection to read:

14 (e) In this section, a "homestead" is

15 (1) an urban home or a place to exercise a calling or
16 business, in an urban area, of a family or a single adult individual,
17 not otherwise entitled to a homestead, that consists of not more than
18 an acre of land that may be in one or more lots, together with any
19 improvements on the land; or

20 (2) a rural home of the acreage provided in this paragraph,
21 that may be in one or more parcels, with the improvements that are on
22 the land, of

23 (A) 200 acres if claimed by a family; or

24 (B) 100 acres, if claimed by an individual.

25 * Sec. 4. AS 09.38 is amended by adding a new section to read:

26 Sec. 09.38.017. EXEMPTION OF RETIREMENT PLAN INTERESTS AND PAY-
27 MENTS. (a) In addition to the exemption under AS 09.38.015(b), the
28 following are exempt from a claim of an individual's creditor:

29 (1) the interest of the individual in a retirement plan;

1 and

2 (2) the money or other assets payable to the individual
3 from a retirement plan.

4 (b) The exemptions provided by (a) of this section do not apply
5 to a contribution made by an individual to a retirement plan within
6 120 days before the individual files for bankruptcy.

7 (c) The exemptions provided by (a) of this section do not pre-
8 vent the payment of benefits under a retirement plan to an alternate
9 payee under a qualified domestic relations order. In this subsection,
10 "qualified domestic relations order" has the meaning given in 26
11 U.S.C. 414(p).

12 (d) A retirement plan exempt from claims under (a) of this
13 section is conclusively presumed to be a spendthrift trust under this
14 section.

15 (e) In this section,

16 (1) "alternate payee" has the meaning given in 26 U.S.C.
17 414(p)(8);

18 (2) "individual" means an individual who is a participant
19 in, a beneficiary of, or an alternate payee of a retirement plan;

20 (3) "retirement plan" means a retirement plan that is
21 qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b),
22 26 U.S.C. 408, or 26 U.S.C. 409 (Internal Revenue Code).

23 * Sec. 5. AS 09.38.025(a) is amended to read:

24 (a) Except as provided in this section or AS 09.38.017, an
25 individual is entitled to exemption of unmatured life insurance and
26 annuity contracts owned by the individual. If the contracts have
27 accrued dividends and loan values available to the individual ag-
28 gregating more than \$5,000, a creditor may obtain a court order re-
29 quiring the individual debtor to pay the creditor, and authorizing the

1 creditor on the debtor's behalf to obtain payment of, the amount of
2 the accrued dividends and loan values in excess of \$5,000 or the
3 amount of the creditor's claim, whichever is less.

4 * Sec. 6. AS 09.38.030(e) is amended to read:

5 (e) The following property, unless exempt without limitation
6 under AS 09.38.015 or 09.38.017, upon receipt by and while it is in
7 the possession of the individual, shall be treated as earnings, in-
8 come, cash, or other liquid assets under this section:

9 (1) benefits paid by reason of disability, illness, or
10 unemployment;

11 (2) money or property received for alimony or separate
12 maintenance;

13 (3) proceeds of insurance, a judgment, or a settlement, or
14 other rights accruing as a result of bodily injury of the individual
15 or of the wrongful death or bodily injury of another individual of
16 whom the individual was or is a dependent;

17 (4) proceeds or benefits paid or payable on the death of an
18 insured, if the individual was the spouse or a dependent of the in-
19 sured; and

20 (5) amounts paid under a stock bonus, pension, profit-
21 sharing, annuity, or similar plan or contract, providing benefits by
22 reason of age, illness, disability, or length of service.

23 * Sec. 7. AS 09.38.055 is amended to read:

24 Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under
25 11 U.S.C. (Bankruptcy) [THE BANKRUPTCY ACT (11 U.S.C.)] only the
26 exemptions under AS 09.38.010, 09.38.015(a), 09.38.017, 09.38.020,
27 09.38.025 and 09.38.030 apply.

28 * Sec. 8. AS 09.38.065(a) is amended to read:

29 (a) Notwithstanding other provisions of this chapter except

1 AS 09.38.010,

2 (1) a creditor may make a levy against exempt property of
3 any kind to enforce a claim for

4 (A) child support;

5 (B) unpaid earnings of up to one month's compensation
6 or the full-time equivalent of one month's compensation for
7 personal services of an employee; or

8 (C) state or local taxes; and

9 (2) a creditor may make a levy against exempt property to
10 enforce a claim for

11 (A) the purchase price of the property or a loan made
12 for the express purpose of enabling an individual to purchase the
13 property and used for that purpose;

14 (B) labor or materials furnished to make, repair,
15 improve, preserve, store, or transport the property; and

16 (C) a special assessment imposed to defray costs of a
17 public improvement benefiting the property.

18 * Sec. 9. AS 09.38.010(b) is repealed.

19 * Sec. 10. AS 09.38.017, added by sec. 4 of this Act, does not apply to
20 the assets of a bankruptcy estate in a proceeding filed under 11 U.S.C.
21 (Bankruptcy) before the effective date of this Act.

Patrick M. Rodey
Senator

Alaska State Legislature



Senate

3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

DATE: April 22, 1988

TO : Senator Rick Halford, Co-Chair
Senate Finance Committee

FROM: Senator Patrick M. Rodey

RE : Senate Bill 508 - legislation relating to property exemptions for
certain retirement plan interests and payments.

I respectfully request that the Senate Finance Committee schedule Senate Bill 508 for consideration as soon as possible.

The proposal has passed out of the Senate Judiciary Committee. Essentially, the bill adds a new presumption based on Kansas law which would allow a person in bankruptcy to exclude certain qualifying pension funds by treating those plans as spendthrift trusts. By excluding these plans, bankruptcy creditors would not have access to the funds.

Several states have recently adopted similar legislation and I believe it would go a long way to protect the "future nest egg" of many Alaskans, particularly those who are concerned about losing it all as a result of the economic down-turn.

This proposal has no fiscal impact and is a timely issue, particularly in view of the anticipated increase in bankruptcies combined with the painful realization that even more Alaskans are being financially squeezed out of the state. This proposal would shelter qualified pension funds from bankruptcy creditors and provide some security for the retirement years.

If I can provide you with any additional information, or if you have any questions, please let me know.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SB 508
Publish Date: April 21, 1988
SENATE

Revision Date: _____
Title: Property exemptions for certain retirement plan interests/payments.
Sponsor: Senate Judiciary
Requestor: _____

Agency Affected: _____
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Senate Judiciary Committee
Division: _____

Phone: 465-3717
Date: April 21, 1988

Approved by ~~Commissioner~~ Senator Jay Kerttula, Chair
Agency: Senate Judiciary Committee

Date: April 21, 1988

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO. 508

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to property exemptions for certain
7 retirement plan interests and payments."

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

9 * Section 1. AS 09.38 is amended by adding a new section to read:

10 Sec. 09.38.017. EXEMPTION OF RETIREMENT PLAN INTERESTS AND PAY-
11 MENTS. (a) In addition to the exemption under AS 09.38.015(b), the
12 following are exempt from a claim of an individual's creditor:

13 (1) the interest of the individual in a retirement plan;
14 and

15 (2) the money or other assets payable to the individual
16 from a retirement plan.

17 (b) The exemptions provided by (a) of this section do not apply
18 to a contribution made by an individual to a retirement plan within
19 120 days before the individual files for bankruptcy.

20 (c) The exemptions provided by (a) of this section do not pre-
21 vent the payment of benefits under a retirement plan to an alternate
22 payee under a qualified domestic relations order. In this subsection,
23 "qualified domestic relations order" has the meaning given in 26
24 U.S.C. 414(p).

25 (d) A retirement plan exempt from claims under (a) of this
26 section is conclusively presumed to be a spendthrift trust under this
27 section.

28 (e) In this section,

29 (1) "alternate payee" has the meaning given in 26 U.S.C.

1 414(p)(8);

2 (2) "individual" means an individual who is a participant
3 in, a beneficiary of, or an alternate payee of a retirement plan;

4 (3) "retirement plan" means a retirement plan that is
5 qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b),
6 26 U.S.C. 408, or 26 U.S.C. 409 (Internal Revenue Code).

7 * Sec. 2. AS 09.38.025(a) is amended to read:

8 (a) Except as provided in this section or AS 09.38.017, an
9 individual is entitled to exemption of unmatured life insurance and
10 annuity contracts owned by the individual. If the contracts have
11 accrued dividends and loan values available to the individual ag-
12 gregating more than \$5,000, a creditor may obtain a court order re-
13 quiring the individual debtor to pay the creditor, and authorizing the
14 creditor on the debtor's behalf to obtain payment of, the amount of
15 the accrued dividends and loan values in excess of \$5,000 or the
16 amount of the creditor's claim, whichever is less.

17 * Sec. 3. AS 09.38.030(e) is amended to read:

18 (e) The following property, unless exempt without limitation
19 under AS 09.38.015 or 09.38.017, upon receipt by and while it is in
20 the possession of the individual, shall be treated as earnings, in-
21 come, cash, or other liquid assets under this section:

22 (1) benefits paid by reason of disability, illness, or
23 unemployment;

24 (2) money or property received for alimony or separate
25 maintenance;

26 (3) proceeds of insurance, a judgment, or a settlement, or
27 other rights accruing as a result of bodily injury of the individual
28 or of the wrongful death or bodily injury of another individual of
29 whom the individual was or is a dependent;

1 (4) proceeds or benefits paid or payable on the death of an
2 insured, if the individual was the spouse or a dependent of the in-
3 sured; and

4 (5) amounts paid under a stock bonus, pension, profit-
5 sharing, annuity, or similar plan or contract, providing benefits by
6 reason of age, illness, disability, or length of service.

7 * Sec. 4. AS 09.38.055 is amended to read:

8 Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under
9 11 U.S.C. (Bankruptcy) [THE BANKRUPTCY ACT (11 U.S.C.)] only the
10 exemptions under AS 09.38.01J, 09.38.015(a), 09.38.017, 09.38.020,
11 09.38.025 and 09.38.030 apply.

12 * Sec. 5. AS 09.38.017, added by sec. 1 of this Act, does not apply to
13 the assets of a bankruptcy estate in a proceeding filed under 11 U.S.C.
14 (Bankruptcy) before the effective date of this Act.

SENATE COMMITTEE REPORT

REC'D
4-14-88
BK

FIRST COMMITTEE OF REFERRAL

Date of _____ 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED _____ **
IN ACCORDANCE WITH AS 24.03.035
(see below)

4/14/88 DATE TURNED INTO OFFICE _____
Mr. President:

Judiciary _____ Committee considered _____ SB 508

property exemptions for certain retirement plan interests and payments

and recommended:

[] replace with CS _____ [] same title
[] new title

[] attached amendment(s) and

Majority
[] do pass

[] do not pass

[] no recommendation

individual recommendations

[] further referral to _____

[] letter of intent adopted and attached

** Committee attached or [] adopted fiscal note(s)
 zero [] fiscal impact

DFN

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Robert K. Rodey
Calvin J. Furgulinski
Joe P. Josephson

Heath *do pass*
Chairman signature and recommendation

[] Committee Backup Attached