

SB

158



ALASKA COLLECTORS ASSOCIATION

A Unit Of
AMERICAN COLLECTORS ASSOCIATION, INC.



REPLY TO:

Transmitted via facsimile

March 23, 1993

Senator Loren Leman
Attn: Porita

Re: Senate Bill 158

Dear Senator Leman,

I am writing this letter to encourage your support of SB 158. On behalf of the Alaska Collectors Association we believe this legislation is vital to the credit industry. The current exemption level allows a majority of non paying consumers to remain virtually judgement proof, greatly restricting economic stimulation.

We would appreciate your support with SB 158.

Sincerely,

Will Fancher
President

WF/ml

| | EXEMPTION COMPARISON | | | |
|-------------------|--|-------------|-------------|-----------------|
| Exemption | Alaska | Washington | Oregon | <i>Proposed</i> |
| Home | \$62,100.00 | \$30,000.00 | \$15,000.00 | \$36,000.00 |
| Personal Property | \$3,450.00 | \$3,700.00 | \$1,450.00 | \$2,100.00 |
| Wages | \$402.50/wk | \$127.50/wk | \$160.00/wk | \$250.00/wk |
| | | | | |
| | Prepared by Senate State Affairs Committee Staff | | | |

RESEARCH

6.13.020. What homestead may consist of

If the owner is married, the homestead may consist of the community or jointly owned property of the spouses or the separate property of either spouse: *Provided*, That the same premises may not be claimed separately by the husband and wife with the effect of increasing the net value of the homestead available to the marital community beyond the amount specified in RCW 6.13.030 as now or hereafter amended. When the owner is not married, the homestead may consist of any of his or her property.

Formerly § 6.12.020, amended by Laws 1973, 1st Ex.Sess.; ch. 154, § 6; Laws 1977, Ex.Sess., ch. 98, § 1, eff. May 28, 1977; Laws 1981, ch. 329, § 8. Recodified as § 6.13.020 and amended by Laws 1987, ch. 442, §§ 202, 1121.

Historical and Statutory Notes

Severability—Laws 1981, ch. 329: See Historical Note following § 6.21.020.

Severability—Laws 1973, 1st Ex. Sess., ch. 154: See Historical Note following § 2.12.030.

Notes of Decisions

For basic development of Notes of Decisions, see § 6.12.020 in main Volume.

3. — By surviving spouse

Fact that homestead protection extended to heads of families by this section and § 6.12.290 encompasses certain

widowed persons not presently distinguishable from single persons in terms of providing for a family, does not indicate that latter group has been denied equal protection under the 14th Amendment. *In re Statham* (1973), 483 F.2d 436, certiorari denied 94 S.Ct. 578, 414 U.S. 1069, 38 L.Ed.2d 474.

6.13.030. Homestead exemption limited

A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, mobile home, and improvements as described in RCW 6.13.010, or (2) the sum of thirty thousand dollars, except where the homestead is subject to execution, attachment, or seizure by or under any legal process, whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, in which event there shall be no dollar limit on the value of the exemption.

Formerly § 6.12.050, amended by Laws 1971, Ex.Sess., ch. 12, § 1; Laws 1977, Ex.Sess., ch. 98, § 3, eff. May 28, 1977; Laws 1981, ch. 329, § 10; Laws 1983, 1st Ex.Sess., ch. 45, § 4. Recodified as § 6.13.030 and amended by Laws 1987, ch. 442, §§ 203, 1121. Amended by Laws 1991, ch. 123, § 2.

Historical and Statutory Notes

1991 Legislation

Laws 1991, ch.123, § 2: added the exception.

Purpose—Laws 1991, ch. 123: "The legislature recognizes that retired persons generally are financially dependent on fixed pension or retirement benefits and passive income from investment property. Because of this dependency, retired persons are more vulnerable than others to inflation and depletion of their assets. It is the purpose of this act to increase the protection of income of re-

tired persons residing in the state of Washington from collection of income taxes imposed by other states." [Laws 1991, ch. 123, § 1.]

Severability—Laws 1981, ch. 329: See Historical Note following § 6.21.020.

Severability—Laws 1971, Ex.Sess., ch. 12: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [Laws

sworn to by the applicant, setting forth the name and age of the alleged incompetent or disabled husband or wife; a description of the premises constituting the homestead; the value of the same; the county in which it is situated; such facts necessary to show that the nonpetitioning husband or wife is incompetent or disabled to the degree required under RCW 6.13.210; and such additional facts relating to the circumstances and necessities of the applicant and his or her family as he or she may rely upon in support of the petition.

Formerly § 6.12.320, amended by Laws 1977, Ex.Sess., ch. 80, § 6. Recodified as § 6.13.230 and amended by Laws 1987, ch. 442, §§ 223, 1121.

Historical and Statutory Notes

Purpose—Intent—Severability—
Laws 1977, Ex.Sess., ch. 80: See Historical Note following § 4.16.190.

6.13.240. Order—Effect

If the court shall make the order provided for in RCW 6.13.210, the same shall be entered upon the minutes of the court, and thereafter any sale, conveyance, or mortgage made in pursuance of such order shall be as valid and effectual as if the property affected thereby was the absolute property of the person making such sale, conveyance, or mortgage in fee simple.

Formerly § 6.12.330. Recodified as § 6.13.240 and amended by Laws 1987, ch. 442, §§ 224, 1121.

CHAPTER 6.15—PERSONAL PROPERTY EXEMPTIONS

Section

- 6.15.010. Exempt property specified.
- 6.15.020. Pension money exempt—Exceptions.
- 6.15.025. Exemption of pension or retirement plan benefits from execution for judgment for out-of-state income tax.
- 6.15.030. Fire insurance money on exempt property exempt.
- 6.15.035. Exemption of proceeds of life, disability insurance and annuities.
- 6.15.040. Separate property of spouse exempt.
- 6.15.050. Exemptions under RCW 6.15.010—Limitations on exemptions generally.
- 6.15.060. Manner of claiming exemptions—Appraisal—Appraiser's fee.
- 6.15.070. Procedure if value of property claimed exempt exceeds exemptible value.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

6.15.010. Exempt property specified

Except as provided in RCW 6.15.050, the following personal property shall be exempt from execution, attachment, and garnishment:

- (1) All wearing apparel of every individual and family, but not to exceed one thousand dollars in value in furs, jewelry, and personal ornaments for any individual.
- (2) All private libraries of every individual, but not to exceed fifteen hundred dollars in value, and all family pictures and keepsakes.
- (3) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

6.15.010

ENFORCEMENT OF JUDGMENTS

(a) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed two thousand seven hundred dollars in value, said amount to include provisions and fuel for the comfortable maintenance of the individual or community;

(b) Other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed one thousand dollars in value, of which not more than one hundred dollars in value may consist of cash, and of which not more than one hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities; and

(c) Two motor vehicles used for personal transportation, not to exceed two thousand five hundred dollars in aggregate value.

(4) To each qualified individual, one of the following exemptions:

(a) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed five thousand dollars in value;

(b) To a physician, surgeon, attorney, clergyman, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed five thousand dollars in value;

(c) To any other individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed five thousand dollars in value.

For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

Formerly § 6.16.020, amended by Laws 1965, ch. 89, § 1; Laws 1973, 1st Ex.Sess., ch. 154, § 13; Laws 1979, Ex.Sess., ch. 65, § 1; Laws 1983, 1st Ex.Sess., ch. 45, § 8. Recodified as § 6.15.010 and amended by Laws 1987, ch. 442, §§ 301, 1121. Amended by Laws 1988, ch. 231, § 5, eff. March 23, 1988; Laws 1991, ch. 112, § 1.

Historical and Statutory Notes

1991 Legislation

Laws 1991, ch. 112, § 1, throughout the section, increased the maximum value allowed for personal property exemptions; in subsec. (3)(b), inserted "and of which not more than one hundred dollars in value may consist of"; in subsec. (3)(c), increased the number of exempt

automobiles from one to two; and preceding "value" inserted "aggregate".

Severability—Laws 1988, ch. 231: See Historical Note following § 6.01.050.

Severability—Laws 1973, 1st Ex. Sess., ch. 154: See Historical Note following § 2.12.030.

Cross References

Earnings as defined in § 7.33.010(3) not exempt from garnishment under this section, see § 7.33.280.

United States Supreme Court

Bankruptcy lien avoidance, judicial liens impairing state law exemptions, see

Owen v. Owen, 1991, 111 S.Ct 1833, 114 L.Ed.2d 350.

Notes of Decisions

Corporation's potential legal negligence claim against its former attorney was property subject to execution. Iku-no v. Yip, C.A.9 (Wash.) 1990, 912 F.2d 306.

hold goods, appliances, furniture, and home and yard equipment encompassed ping-pong table, lawnmower, picnic table and benches, desk top adding machine, bowling ball and bag, tents and camping equipment, golf clubs and bag, telephones, antique stand-up radio, color

Former § 6.16.020 (see, now, this section) providing for exemption of house-

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ATTACHMENT & GARNISHMENT

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29.220 [Repealed by 1981 c.898 §53]

29.225 Form of notice of exemptions.

(1) The notice of exemptions referred to in ORS 29.215 shall be in substantially the form set forth in this subsection. Nothing in the notice form described under this subsection is intended either to expand or restrict the law relating to exempt property. Whether property is exempt from execution, attachment and garnishment shall be determined by reference to other law. The form may be modified either to provide more complete information or to update the notice based on subsequent changes in exemption laws. However, any such modification shall not be required. The following form is for notice of exemption:

NOTICE OF EXEMPT PROPERTY

Property belonging to you may have been taken or held in order to satisfy a claim or judgment which has been asserted or entered against you. Important legal papers are enclosed.

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

State and federal law say certain property may not be taken. Some of the property which may not be taken is listed below.

(1) Wages or a salary as described in ORS 23.175 and 23.185 (whichever of the following amounts is more: (a) 75 percent of your take-home wages; (b) For wages payable before June 30, 1992, \$150; (c) For wages payable before June 30, 1993, \$160; or (d) For wages payable on or after July 1, 1993, \$170).

(2) Social security (including SSI).

(3) Public assistance (welfare).

(4) Unemployment benefits.

(5) Disability benefits.

(6) Workers' compensation benefits.

(7) Exempt wages, social security, welfare, unemployment benefits and disability benefits when placed in a checking or savings account (up to \$5,000).

(8) Spousal support, child support, or separate maintenance to the extent reasonably necessary for your support or the support of any of your dependents.

(9) A homestead (home, farm, manufactured dwelling, houseboat) if you live in it, to the value of \$13,000 (\$15,000, if land is included) or proceeds from its sale for one (1) year.

(10) Household goods, furniture, radios, a television set and utensils, to \$1,450.

*(11) Automobile, truck, trailer or other vehicle to \$1,200.

*(12) Tools, implements, apparatus, team, harness or library necessary to carry on your occupation to \$750. Food for such team for 60 days.

*(13) Books, pictures and musical instruments to \$300.

*(14) Wearing apparel, jewelry and other personal items to \$900.

(15) Domestic animals and poultry for family use to \$1,000 and their food for 60 days.

(16) Provisions (food) and fuel for your family for 60 days.

(17) One rifle or shotgun and one pistol.

(18) Public or private pensions.

(19) Veterans benefits and loans.

(20) Medical assistance benefits.

(21) Health insurance proceeds and disability proceeds of life insurance policies.

(22) Cash surrender value of life insurance policies not payable to your estate.

(23) Federal annuities.

(24) Other annuities to \$250 per month, excess over \$250 per month subject to same exemption as wage.

(25) Professionally prescribed health aids for you or any of your dependents.

*(26) A tax refund allowed pursuant to ORS 310.635 or 310.640 as set forth in ORS 310.637.

*(27) Your right to receive, or property traceable to:

*(a) An award under any crime victim reparation law.

*(b) A payment, not exceeding \$7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of you or an individual of whom you are a dependent.

*(c) A payment in compensation of loss of future earnings of you or an individual of whom you are or were a dependent, to the extent reasonably necessary for your support and the support of any of your dependents.

(28) Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.

(29) The difference between what you actually owe the creditor and the total amount due listed in the writ of garnishment, if the amount listed in the writ is larger.

Note: If two or more people in your household owe the claim or judgment, each of them may claim the exemptions marked by *.