

**SB**

**165**

# FISCAL NOTE

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. SB 165**

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title "An Act relating to the remedies available to judgment creditors against limited liability company members ..."	BRU	Civil Division
Sponsor Senate Judiciary Committee by Request	Component	Commercial
Requester Senate Judiciary Committee	Component Serial No.	2211

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

SB 165 limits a judgment creditor's rights to execute against parties and property with respect to limited liability company members or limited partnership general and limited partners.

This bill will have no fiscal impact on the Department of Law.

Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner Bruce M. Botelho *Bruce M. Botelho*  
 Agency Department of Law

Phone 465-5370  
 Date/Time 5/6/99, 9:36 AM  
 Date 5/6/99

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# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB 165

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title "An Act relating to the remedies available to judgment creditors against limited liability company members..."	BRU	Civil Division
Sponsor Senate Judiciary Committee	Component	Commercial
Requester Senate Finance Committee	Component No.	2211

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

POSITIONS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

SB 165 limits a judgment creditor's rights to execute against parties and property with respect to limited liability company members or limited partnership general and limited partners.

This bill will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson*  
 Division: Attorney General's Office  
 Approved by Commissioner: *[Signature]* Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone 465-5370  
 Date/Time 2/1/00, 2:12 PM  
 Date 2/1/00

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# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 4/28/99

FURTHER: Finance

Date of 5-Day Notice: 24-hour rule in effect  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 5/12/99

Judiciary Committee considered

SENATE BILL NO. 165

"An Act relating to the remedies available to judgment creditors against limited liability company members and their assignees and against limited partnership general and limited partners and their assignees; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS -	NR	DNP	AM
		<i>[Handwritten signature]</i>			
		<i>[Handwritten signature]</i>			
CHAIR: <i>[Handwritten signature]</i>	<input checked="" type="checkbox"/>	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<i>Law</i>	<i>5/6</i>	<input checked="" type="checkbox"/>	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# Alaska State Legislature

Chairman,  
Judiciary Committee  
Administrative Regulations  
Revenue Committee

Vice Chairman,  
Resources Committee



*Senator Robin L. Taylor*

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Ketchikan, Alaska 99901  
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## REQUESTOR STATEMENT

### SB 165

**"An Act relating to the remedies available to judgment creditors against limited liability company members and their assignees and against limited partnership general and limited partners and their assignees; and providing for an effective date."**

SB 165 amends the Alaska Limited Partnership Act and the Alaska Limited Liability Act. The proposed amendments make it clear that a judgement creditor of an Alaska limited partnership or limited liability company has only the remedy of a charging order. Thus, the creditor will receive all distributions made to the debtor partner or member. However, the right to receive such distribution is the judgement creditor's only remedy. No other remedies are available to the judgement creditor or to a court implementing a creditor's collection request.

Limited partnerships and limited liability companies are often used for closely held businesses or investment activities. Families frequently use them. One of the key advantages of these business entities is that the partners or members can choose who will be their business associates, and can be secure that the venture will continue until an agreed time or event.

If a creditor obtains a judgement against a partner or member, the statutes provide that the creditor can obtain a "charging order" against the debtor's partnership or limited liability company interest. This allows the creditor to receive the distributions to which the partner or member would be entitled.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

Requestor Statement

Pg. 2

On its face, these statutes do not expressly allow for any other creditor remedies. This is consistent with the concept that the other partners of a partnership or members of a limited liability company should not have their business or investment actively disrupted, nor should they be forced to take in a substitute partner or member (e.g., the judgement creditor). This was the generally understood position taken by the Uniform Limited Partnership Act and many limited liability acts.

However, recently a Connecticut court held that a judgement creditor of a limited partnership could foreclose on the partnership interest. This holding was in conflict with a prior Florida court decision which held that foreclosure was not an available remedy for a judgement creditor of a limited partner. Such foreclosure would allow the judgement creditor to become a partner of the limited partnership, or a member of the limited liability company. Depending on the provisions of the partnership agreement or operating agreement, this could result in a forced dissolution of the entity and sale of its assets. Such a result could be very harmful to the other partners or members.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

September 27, 1999

**SUBJECT:** Sectional Summary of SB 165(Work order 21-LS0919A)

**TO:** Senator Robin Taylor  
Attn: Sue

**FROM:** *TB*  
Theresa Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** Adds provisions relating to the rights of judgment creditors of a member (or a member's assignee) of a limited liability company.

Sec. 10.50.380(c) states that AS 10.50.380 provides the exclusive remedy that the judgment creditor may use to satisfy a judgment out of the judgment debtor's interest in the limited liability company. Identifies some of the remedies that are not available to the judgment creditor.

Sec. 10.50.380(d) states that AS 10.50.380 does not deprive a member of a limited liability company of the benefit of an exemption that applies to the member's membership interest in the limited liability company.

**Section 2.** Provides that the rights of a creditor with regard to the interest of a general partner in a limited partnership are subject to the new provision proposed by sec. 3 of the bill.

**Section 3.** Adds a provision relating to the rights of judgment creditors of a general or limited partner (or of the partner's assignee) of a limited partnership. States that AS 32.11.340 provides the exclusive remedy that the judgment creditor may use to satisfy a judgment out of the judgment debtor's interest in the partnership. Identifies some of the remedies that are not available to the judgment creditor.

**Section 4.** States that the Act does not apply to a judgment creditor's remedies for collecting a judgment entered by a court before the Act takes effect.

Senator Robin Taylor  
September 27, 1999  
Page 2

**Section 5.** Gives the Act an immediate effective date.

If I may be of further assistance, please advise.

TLB:pl  
99-152.plm