

SB

47

<TARGET><BILL>SB 47</BILL><SUBJECT>SB
47</SUBJECT><COMM>SJUD29</COMM></TARGET>

Alaska State Legislature

Senate Majority Leader

Joint Armed Services Committee

Co-Chairman

Judiciary Committee

Vice-Chairman

Resources Committee

State Affairs Committee

Legislative Council

Rules Committee



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Senator John Coghill

Sponsor Statement

SB 47 "An Act relating to exemptions for cash surrender values, accrued dividends, and loan values of life insurance and annuity contracts."

Under the Alaska Exemptions Act under Chapter 38 of Title 9 in the Code of Civil Protections there are currently six exemptions that exist from attachment, garnishment, or execution by a creditor in civil actions. One of these exemptions under AS 09.38.025(a) is an exemption of up to \$500,000 on un-matured life insurance. SB 47 goes in and repeals the \$500,000 limit in AS 09.38.025(a).

In effect SB 47 brings AS 09.38.025(a) in line with other exemptions found in the Alaska Exemption Act, such as: burial plots, longevity bonuses, tuition credits, the permanent fund dividend, medical benefits, liquor licenses, payments found under the Senior Benefits Payment Program, compensation of benefits exempt under federal law, and retirement plan interests and payments.

While the law currently provides protection of non-estate assets up to \$500,000, having a limit in the first place clearly does not assist in the protection of assets or pre-bankruptcy planning. While states like South Carolina, Wisconsin, and New York expressly define cash surrender values from life insurance as exempt, still many states ultimately rely on judicial interpretation of a debtor's intent. This bill will provide people with a better security and planning for their families after they have passed on.

This bill encourages personal responsibility and protects the future of Alaskan families.

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SECTIONAL ANALYSIS

SB 47 *"An Act relating to exemptions for cash surrender values, accrued dividends, and loan values of life insurance and annuity contracts."*

Section 1. The legislature proposes to exempt un-matured life insurance policies and annuity contracts, including cash surrender values, accrued dividends, and loan values.

Section 2. The legislature proposes that the exemptions found in Sec. 1 of this bill be may be sought on or after the effective date of the Act.

Sec. 09.38.010. Homestead exemption. (a) An individual is entitled to an exemption as a homestead of the individual's interest in property in this state used as the principal residence of the individual or the dependents of the individual, but the value of the homestead exemption may not exceed \$54,000.

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

(c) If property that includes a homestead is sold under an execution, the sale becomes effective upon confirmation by order of the court. The court shall enter the order of confirmation unless, within 60 days after the sale, the individual repurchases the property under this section or the court extends the time for confirmation upon the filing of a timely motion by a party in interest. The individual may repurchase property, including that individual's homestead, at a sale on execution before confirmation by paying into court the costs of the sale plus the lesser of either (1) the difference between the highest bid and the amount of the exemption in the property, or (2) the amount of the creditor's claim. If the individual does not exercise the repurchase right under this subsection, the clerk of the court shall first remit an amount determined to be exempt to the individual from the proceeds of sale and the balance less the cost of the sale to the creditor. For the purpose of collecting an amount remaining unpaid on a judgment after repurchase of property by an individual under this subsection, the creditor or the creditor's assignee may not make another levy on the property repurchased.

(d) Upon entry of the order of confirmation under (c) of this section and expiration of the time period for repurchase, the clerk may execute a deed to the property and when delivered it shall be sufficient to convey all title of the individual in the premises sold to the purchaser at the sale.

Sec. 09.38.015. Property exempt without limitation. (a) An individual is entitled to exemption of the following property:

- (1) a burial plot for the individual and the individual's family;
- (2) health aids reasonably necessary to enable the individual or a dependent to work or to sustain health;
- (3) benefits paid or payable for medical, surgical, or hospital care to the extent they are or will be used to pay for the care;
- (4) an award under AS 18.67 (Violent Crimes Compensation Board) or

a crime victim's reparations act of another jurisdiction;

(5) benefits paid or payable as a longevity bonus under AS 47.45;

(6) compensation or benefits paid or payable and exempt under federal law;

(7) liquor licenses granted under AS 04;

(8) tuition credit or savings accounts under a higher education savings account established under AS 14.40.802 or an advance college tuition savings contract authorized under AS 14.40.809(a);

(9) a permanent fund dividend to the extent allowed under AS 43.23.065;

(10) *[Repealed, Sec. 4 ch 89 SLA 2005]*.

(11) benefits paid or payable under AS 47.45.301 - 47.45.309.

(b) The right to benefits held by the state on behalf of an individual that may become payable by reason of disability, unemployment, or illness, amounts held in the teachers', judicial, or public employees' retirement system, or in the elected public officers' retirement system under former AS 39.37, and child support collections made by the child support services agency are exempt.

(c) Property of the state, a municipality, and of the Alaska Municipal Bond Bank Authority or another state public corporation is exempt.

(d) Real property held by a cemetery association established under AS 10.30 for the purpose of a cemetery and not exceeding 80 acres is exempt.

(e) Money held in an escrow account under AS 06.60.360 is exempt.

Sec. 09.38.017. Exemption of retirement plan interests and payments.

(a) In addition to the exemption under AS 09.38.015(b), the following are exempt from a claim of an individual's or beneficiary's creditor:

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

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

(3) the interest of a beneficiary in

(A) a retirement plan if the beneficiary acquired the interest as a result of the death of an individual; the beneficiary's interest is exempt to the same extent that the individual's interest was exempt immediately before the individual died;

(B) an individual retirement account that has been transferred by the individual to the beneficiary during the individual's lifetime; the beneficiary's interest is exempt to the same extent that the individual's interest was exempt immediately before the transfer to the beneficiary;

(4) the money or other assets payable to a beneficiary from

(A) a retirement plan if the beneficiary acquired the money or other assets as a result of the death of an individual who would have had, during the individual's life, an exemption in the money or other assets;

(B) an individual retirement account if the beneficiary acquired the money or other assets as a result of the transfer of the money or other

assets by an individual who would have had, at the time of the transfer, an exemption in the money or other assets.

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

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

(d) A retirement plan exempt from claims under (a) of this section is conclusively presumed to be a spendthrift trust under this section, except for transfers or assignments under AS 34.40.118.

(e) In this section,

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

(2) "beneficiary" includes a person, trust, or trustee who has, before or after the death of an individual, a direct or indirect beneficial interest in a retirement plan; in this paragraph, "beneficial interest" includes an interest that is acquired

(A) as a designated beneficiary, survivor, co-annuitant, heir, or legatee; or

(B) if excludible from gross income under 26 U.S.C. (Internal Revenue Code), as a

(i) rollover under 26 U.S.C. 408 or 26 U.S.C. 408A;

(ii) distribution from one retirement plan to another retirement plan; or

(iii) distribution that is similar to (i) or (ii) of this subparagraph;

(3) "individual" means a participant in, an owner of, or an alternate payee of a retirement plan;

(4) "individual retirement account" means an individual retirement account established under 26 U.S.C. 408 or a Roth IRA established under 26 U.S.C. 408A;

(5) "retirement plan" means

(A) a retirement plan that is qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b), 26 U.S.C. 409, 26 U.S.C. 414(d), 26 U.S.C. 414(e), or 26 U.S.C. 457 (Internal Revenue Code);

(B) an individual retirement account; and

(C) the teachers' retirement system under AS 14.25, the judicial retirement system under AS 22.25, the public employees' retirement system under AS 39.35, and the elected public officers' retirement system under former AS 39.37.

Sec. 09.38.020. Exemptions of personal property subject to value limitations.

(a) An individual is entitled to an exemption in property not to exceed an aggregate value of \$3,000 chosen by the individual from the following categories of property:

(1) household goods and wearing apparel reasonably necessary for one household;

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

(3) family portraits and heirlooms of particular sentimental value to the individual.

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

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

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

(e) An individual is entitled to an exemption of one motor vehicle to the extent of a value not exceeding \$3,000 if the full value of the motor vehicle does not exceed \$20,000.

Sec. 09.38.025. Exemption of unmaturred life insurance and annuity contracts.

(a) Except as provided in this section or [AS 09.38.017](#), an individual is entitled to exemption of unmaturred life insurance and annuity contracts owned by the individual. If the contracts have accrued dividends and loan values available to the individual aggregating more than \$500,000, a creditor may obtain a court order requiring the individual debtor to pay the creditor, and authorizing the creditor on the debtor's behalf to obtain payment of, the amount of the accrued dividends and loan values in excess of \$500,000 or the amount of the creditor's claim, whichever is less.

(b) A judgment creditor or other claimant of an insurer may not levy upon any of the assets or securities held in this state as a deposit for the protection of the insurer's policyholders or policyholders and creditors. Deposits under [AS 21.09.270](#) may be levied upon if provided in the order of the director of insurance, Department of Commerce, Community, and Economic Development, under which the deposit is made.

Sec. 09.38.030. Exemption of earnings and liquid assets.

(a) Except as provided in (b), (c), (f), and (h) of this section and [AS 09.38.050](#), an individual debtor is entitled to an exemption of the individual debtor's weekly net earnings not to exceed \$350. The weekly net earnings of an individual are determined by subtracting from the weekly gross earnings all sums required by law or court order to be withheld. The weekly net earnings of an individual paid on a monthly basis are determined by subtracting from the monthly gross earnings of the individual all sums required by law or court order to be withheld and dividing the remainder by 4.3. The weekly net earnings of an individual paid on a semi-monthly basis are determined by subtracting from the semi-monthly gross earnings all sums required by law or court order to be withheld and dividing the remainder by 2.17.

(b) An individual who does not receive earnings either weekly, semi-monthly, or monthly is entitled to a maximum exemption for the aggregate value of cash and other liquid assets available in any month of \$1,400, except as provided in (f) and (h) of this section and in AS 09.38.050. The term "liquid assets" includes deposits, securities, notes, drafts, accrued vacation pay, refunds, prepayments, and receivables, but does not include permanent fund dividends before or after receipt by the individual.

(c) A creditor may levy upon earnings exempt under (a) and (b) of this section if the creditor's claim is

(1) enforceable against exempt property under AS 09.38.065(a)(1) or (3); or

(2) enforceable under an order of a court of bankruptcy under 11 U.S.C. 1301 - 1330 (Bankruptcy Reform Act of 1978).

(d) If the individual debtor is a nonresident, the limitations on garnishment imposed under 15 U.S.C. 1673 apply.

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

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

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

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

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

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

(f) The state may execute on a judgment awarded to the state or on a judgment of restitution on behalf of a victim of a crime or a delinquent act, and an officer or agent of the state or a state employee, or a former officer, agent, or employee of the state may execute on a judgment to that person against a party to an action who is incarcerated for a criminal conviction by sending a notice of levy to the correctional facility in which the person is incarcerated. All money in an incarcerated person's account at a correctional facility is available for disbursement under a notice of levy under this subsection, in the following order of priority:

(1) to support the dependents of the incarcerated person and to provide child support payments as required by AS 25.27;

(2) to satisfy restitution or fines ordered by a court to be paid by the incarcerated person;

(3) to pay a civil judgment entered against the incarcerated person as a result of that person's criminal conduct;

(4) to reimburse the state for an award made for violent crimes compensation under AS 18.67 as a result of the incarcerated person's criminal conduct;

(5) to satisfy other judgments entered against a prisoner in litigation against the state; in this paragraph, "litigation against the state" has the meaning given in AS 09.19.100.

(g) A creditor may levy upon earnings or liquid assets exempt under (a) or (b) of this section if the money is held outside a correctional facility and the claim is for court-ordered restitution to be paid by a prisoner to the creditor under a judgment for conviction of a crime or an adjudication of delinquency.

(h) In this section,

(1) "correctional facility" has the meaning given in AS 33.30.901;

(2) "official detention" has the meaning given in AS 11.81.900(b);

(3) "prisoner" means a person held under the authority of state or municipal law in official detention.

Sec. 34.40.010. Invalidity generally. Except as provided in AS 34.40.110, a conveyance or assignment, in writing or otherwise, of an estate or interest in land, or in goods, or things in action, or of rents or profits issuing from them or a charge upon land, goods, or things in action, or upon the rents or profits from them, made with the intent to hinder, delay, or defraud creditors or other persons of their lawful suits, damages, forfeitures, debts, or demands, or a bond or other evidence of debt given, action commenced, decree or judgment suffered, with the like intent, as against the persons so hindered, delayed, or defrauded is void.

Sec. 09.38.065. Claims enforceable against exempt property. (a) Subject to AS 06.60.360(e), and notwithstanding other provisions of this chapter,

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

(A) child support;

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

(C) state or local taxes;

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

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

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

(C) a special assessment imposed to defray costs of a public improvement benefiting the property; and

(3) a creditor may make a levy against exempt property of any kind to enforce the claim of a victim, including a judgment of restitution on behalf of a victim of a crime or a delinquent act, if the claim arises from conduct of the debtor that results in a conviction of a crime or an adjudication of delinquency, except that the debtor is entitled to an exemption in property

(A) not to exceed an aggregate value of \$3,000 chosen by the debtor from the following categories of property:

(i) household goods and wearing apparel reasonably necessary for one household;

(ii) books and musical instruments, if reasonably held for the personal use of the debtor or a dependent of the debtor; and

(iii) family portraits and heirlooms of particular sentimental value to the debtor; and

(B) not to exceed an aggregate value of \$2,800 of the debtor's implements, professional books, and tools of the trade.

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

(c) A creditor having a claim enforceable under (a) of this section against exempt property, before, at the time of, or a reasonable time after making a levy on property of an individual, shall serve on the individual a notice of the levy and of the basis for the creditor's right to make a levy on exempt property.

(d) *[Repealed, Sec. 40 ch 92 SLA 2001].*

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	SB 47
Fiscal Note Number:	1
(S) Publish Date:	3/4/2015

Identifier: SB047-DCCED-DOI-02-20-15
 Title: LIFE INSURANCE/ANNUITY EXEMPTIONS
 Sponsor: COGHILL
 Requester: (S) Labor and Commerce

Department: Department of Commerce, Community and
 Economic Development
 Appropriation: Insurance Operations
 Allocation: Insurance Operations
 OMB Component Number: 354

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Lori Wing-Heier, Director
 Division: Division of Insurance
 Approved By: Catherine Reardon, Director
 Agency: Division of Administrative Services

Phone: (907)465-2560
 Date: 02/21/2015 01:20 AM
 Date: 02/21/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

SB 47 removes the aggregated value requirement for exemption and removes the ability for a creditor to obtain a court order to require the individual debtor to pay the creditor. This bill does not have a fiscal impact for the Division of Insurance.

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MEMORANDUM

March 20, 2015

SUBJECT: Are the retirement benefits of public employees and labor union members exempt from debt collection?
(Work Order No 29-LS0769)

TO: Senator John Coghill
Attn: Rynniva Moss

FROM: Daniel C. Wayne
Legislative Counsel 

You have asked whether the retirement benefits of public employees and members of labor unions are exempt from garnishment. The short answer is yes, generally retirement benefits are protected from garnishment.

A garnishment is a method of debt collection. Exemptions from claims are set out in the Alaska Exemptions Act, AS 09.38. An exemption is defined in the Act as "protection from subjection to process or a proceeding to collect an unsecured debt."¹ Under the Act, AS 09.38.015(b) reads:

The right to benefits held by the state on behalf of an individual that may become payable by reason of disability, unemployment, or illness, amounts held in the teachers', judicial, or public employees' retirement system, or in the elected public officers' retirement system under former AS 39.37, and child support collections made by the child support services agency are exempt.

In addition, AS 09.38.017(a) exempts retirement benefits for all individuals, not just public employees or union members, it reads:

(a) In addition to the exemption under AS 09.38.015(b), the following are exempt from a claim of an individual's or beneficiary's creditor:

- (1) the interest of the individual or beneficiary in a retirement plan;
- (2) the money or other assets payable to the individual from a retirement plan;
- (3) the interest of a beneficiary in

¹ AS 09.38.500.

(A) a retirement plan if the beneficiary acquired the interest as a result of the death of an individual; the beneficiary's interest is exempt to the same extent that the individual's interest was exempt immediately before the individual died;

(B) an individual retirement account that has been transferred by the individual to the beneficiary during the individual's lifetime; the beneficiary's interest is exempt to the same extent that the individual's interest was exempt immediately before the transfer to the beneficiary;

(4) the money or other assets payable to a beneficiary from

(A) a retirement plan if the beneficiary acquired the money or other assets as a result of the death of an individual who would have had, during the individual's life, an exemption in the money or other assets;

(B) an individual retirement account if the beneficiary acquired the money or other assets as a result of the transfer of the money or other assets by an individual who would have had, at the time of the transfer, an exemption in the money or other assets.

According to AS 09.38.017(e)(5), for purposes of AS 09.38.017, "retirement plan" means:

(A) a retirement plan that is qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b), 26 U.S.C. 409, 26 U.S.C. 414(d), 26 U.S.C. 414(e), or 26 U.S.C. 457 (Internal Revenue Code);

(B) an individual retirement account; and

(C) the teachers' retirement system under AS 14.25, the judicial retirement system under AS 22.25, the public employees' retirement system under AS 39.35, and the elected public officers' retirement system under former AS 39.37.

Paragraph (A) of this definition includes the majority of retirement plans that would apply to persons employed in the private sector, including those who belong to private-sector labor unions.

The exemptions under AS 09.38.017(a) are not absolute. Under AS 09.38.065(a), certain preferred creditors are allowed to seize a debtors' assets that would otherwise be exempt from seizure by an ordinary creditor under AS 09.38. These include spouses owed child support, employees not paid, and governments owed taxes. AS 09.38.065(b) clarifies that in some cases the Exemptions Act does not apply to debts secured by statutory lien or security interest, so for those kind of debts a person's interest in a retirement plan might not be exempt from collection under the Exemptions Act. AS 09.38.017(b) and (c) list two limited exceptions, as follows:

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

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

Federal Law

AS 09.38.015(a)(6) exempts from debt collection in Alaska "compensation or benefits paid or payable and exempt under federal law." In the limited time available at present to research this issue I was not able to compile an exhaustive list of all of the exemptions, and the exceptions to those exemptions, under federal law. However, there appear to be many. According to the U.S. Supreme Court, the garnishment of retirement benefits is generally prohibited by ERISA (for ERISA-qualified plans); the Social Security Act, 49 Stat. 620, as amended, 42 U.S.C. § 407 (1982 ed.); the Railroad Retirement Act, as amended, 47 Stat. 438, 45 U.S.C. § 231m(a) (1982 ed., Supp. V); the Civil Service Retirement Act, 5 U.S.C. § 8346(a); and the Veterans' Benefits Act, 38 U.S.C. § 3101(a) (1982 ed.).²

DCW:Ind
15-246.Ind

² *Guidry v. Sheet Metal Workers Nat. Pension Fund*, 493 U.S. 365, 372, 110 S. Ct. 680, 685, 107 L. Ed. 2d 782 (1990).

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ENROLLED AGENT (IRS)

March 26, 2015

VIA FAX (907) 465-3258

Senator John Coghill
State Capitol Room 119
Juneau, Alaska 99801
Attention: German Vaquero

Re: Senate Bills 15 and 47

Dear Senator Coghill:

I support the passage of Senate Bill 15 and Senate Bill 47. I am a trust and estate attorney who has worked in Fairbanks for nearly 31 years.

Senate Bill 15 will make Alaska as competitive as South Dakota for high premium private placement life insurance policies. Before we lowered our premium tax on policies with annual premiums of over \$100,000, we sold few, if any, of these policies in Alaska. As a result of the changes in our premium tax, Alaska captured a share of this market and benefited from tax revenue that it did not previously receive. These policies are being sold to trustees of trusts created and administered under Alaska law who want to insure the lives of high net worth individuals who live outside of Alaska. As Alaska began to capture more of this market, South Dakota responded in kind and lowered its premium tax in an effort to take business from Alaska. The most misunderstood aspect of SB 15 is that it will result in more revenue to Alaska – not less. Unless we lower our premium tax and remain competitive with South Dakota, all large private placement life insurance policies will be sold in South Dakota and held in South Dakota Trusts. In short, Alaska will lose out.

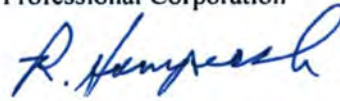
Senate Bill 47 is also important to our state and will help those Alaskans who use life insurance to protect their families. Our current law that exempts up to \$500,000 of cash value in life insurance and annuities is much better than the old exemption of \$10,000. However, when one considers inflation and the costs of living in Alaska \$500,000 will not support an elderly couple living in Alaska for very many years. For this reason I support an unlimited exemption on the cash value of life insurance and annuities.

Please feel free to contact me if you have any questions.

Sincerely,

Sen. J. Coghill
March 26, 2015
Page 2

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March 26, 2015

sender's email address:
jkuchle@alaskalaw.com

Via Email: senator.john.coghill@akleg.gov
And Regular Mail

Senator John Coghill
Leg-State Senate District B
120 Fourth Street, Ste. 119
Juneau, AK 99801

Re: Senate Bills 15 and 47

Dear Senator Coghill:

Thank you for your sponsorship and support of Senate Bills 15 and 47. Since the passage of the Alaska Trust Act in 1997, Alaska has become a favored state for trust and estate planning. Alaska's lack of an income tax and its progressive and forward thinking estate planning and trust legislation has made Alaska a good place to invest and administer assets. These two Senate bills continue in that tradition.

As you know, SB 15 changes the tax on life insurance premiums from 1% to .08%. While this may seem like a small change, this will help Alaska maintain parity with South Dakota on its life insurance premium tax and will continue to allow Alaska to be a premier state for estate planning.

Alaska has received millions of dollars in insurance premium tax revenues due to its favorable estate planning climate. Alaska must keep pace with other states in order to continue to be a place where estate planners want to purchase insurance; without these benefits, Alaska would not have received this revenue. Without this change, Americans may invest in more tax favored jurisdictions. This proposed change will not cost the State anything and, will bring more insurance tax revenue to the State because more people will invest in policies here.

SB 47 allows the asset protection on life insurance annuities to be unlimited, like ERISA benefits under federal law. Similar to SB 15, this change will encourage those with assets outside of Alaska to house them here, to obtain the protection that Alaska law will offer.

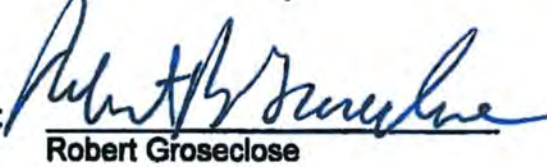
We encourage you to continue your efforts for the passage of both bills and appreciate your efforts in continuing to make Alaska a premier estate planning jurisdiction, at parity with states in competition with Alaska for this business.

Sincerely,

COOK SCHUHMAN & GROSECLOSE, INC.

BY: 
Jo A. Kuchie

BY: 
Danielle M. Gardner

BY: 
Robert Groseclose

BY: 
Barbara Schuhmann



THE STATE
of ALASKA
GOVERNOR BILL WALKER

Department of Commerce, Community,
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March 17, 2015

The Honorable Lesil McGuire, Chair
Senate Committee on Judiciary
Alaska State Capitol
Juneau, AK 99801

Dear Senator McGuire:

During the Senate Judiciary Committee on March 11, 2015, I was asked to follow-up on two issues. The additional information is provided below:

Will SB47, as amended, provide an exemption for civil and criminal action?

The Department of Law has confirmed that AS 09.38.065(a)(3) addresses the availability of life insurance and annuities to pay for damages for criminal acts by allowing a creditor to levy an exempt property to enforce the claim of a victim if the debtor is convicted. AS 09/38/065(a)(3) also addresses some limitations on the amount of the life insurance or annuity. SB4 will not provide an exemption for criminal acts but will for civil acts.

In the current statute, AS 09.38.025(a), has the current cap of \$500,000 presented an issue and if so, how often? Why are we not just raising the cap to \$1,000,000 or \$2,000,000?

The Department of Law has advised that they do not have a database showing how judgements have been satisfied so they are unable to provide any statistics on the number of criminal or civil action where the \$500,000 limitation. The Division of Insurance is making an inquiry of the life insurers to see if we can obtain the data through the insurers. However, that will take a matter of weeks for the insurers to research their data bases to determine the reasons why a life insurance policy may have been cashed-in and what amounts were cashed-in to settle civil and criminal judgements.

I hope this answers the questions of your committee. Please let me know if I can be of any further assistance. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Lori Wing-Heier".

Lori Wing-Heier
Director
Division of Insurance