

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3434 HJUD SB 412 - SCR 5

310



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

*James O. Smith*  
Signature of Camera Operator

*7/25/89*  
Date

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STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary 5-7-86

1:30pm

COMMITTEE REPORT

(7)

Date referred: 4/22/86

FURTHER REFERRALS:

DATE: \_\_\_\_\_

The JUDICIARY Committee has considered SB 412

"An Act relating to claims against the state."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with \_\_\_\_\_  same title
- replace with \_\_\_\_\_  new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

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Chairman

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SB 412  
 Title : Acr relating to claims  
against the state  
 Sponsor : Senator Faiks  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : All  
 BRU : \_\_\_\_\_  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS :**

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

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

Prepared by : \_\_\_\_\_  
 Division : Senator Jan Faiks, Co-chairman  
Senate Finance Committee  
 Approved by Commissioner : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Phone : 465-4523  
 Date : 3/20/86

Date : \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

# Alaska State Legislature



CO-CHAIRMAN  
FINANCE COMMITTEE

(907-465-3700)

JAN FAIKS  
PO BOX 4  
CAPITOL BUILDING  
JUNEAU ALASKA 99801

Senate

February 25 1986

## MEMORANDUM

TO: Senator Mitch Abood, Chairman  
Senate State Affairs Committee

FROM: Senator Jan Faiks *JF*

SUBJECT: Background Information on Senate Bill 412, an Act  
relating to claims against the state

Alaska Statutes 44.77.010 - 070 establish procedures for a person who wishes to file a claim for labor, services, materials, or supplies furnished to the State.

The claim must first be submitted to an administrative or executive officer. If the officer denies his claim, then the claimant may obtain review of the denial by the Department of Administration.

Only if both the officer and the Department deny the claim, or the latter takes no action on the request for one year, may the person seek judicial review of the State's decision. In that event, the current law says that a person can file a legal action in Superior Court. There, his claim would be governed by the procedures for introducing evidence and all of the other formalities of a civil lawsuit.

Section 1 and 2 of this bill will change this system by entitling the person to a judicial review according to simpler procedures which are now contained in our Administrative Procedure Act. Rather than beginning anew with the issue, the court would be able to review the evidence already presented on the claim and then judge the State's decisions accordingly.

OUT OF SESSION

1024 WEST SIXTH AVENUE, SUITE 302 ANCHORAGE, ALASKA 99501 907-274-6611

These amendments were suggested by the Alaska Supreme Court in order to further judicial economy without significantly impairing the rights of claimants. These persons will still have full court review of their denied claims. However, they will avoid the expense and delay of having to present these claims in the context of a formal, civil lawsuit.

Section 3 deals with the consequences of a November, 1985, court decision. In the case of State v. Dupere, the Supreme Court decided that the claims procedure applied not only to the executive branch, but also to the legislative and judicial branches.

Currently, AS 44. 7.070 exempts from this system any department in the executive branch which has adopted its own mandatory claim and appeal procedure.

Section 3 of the bill will extend this exemption to departments of the legislative and judicial branches once they adopt a claims and appeals procedure. By allowing the judicial and legislative branches to adopt their own system and to avoid a review of their matters by a department of the executive branch, the bill will further the principle of separation of powers.

## SB 412 - Analysis

### Sections 1 and 2

- Under current law, a person who has a contract claim against the state must file it with the Department of Administration.
- If a person loses after going through the DOA review, the person must file a brand new law suit in court.
- Under this bill, instead of filing a totally new law suit, the person would ask for court review of the DOA decision. The court would not hold a new hearing but would make its decision based on the record compiled by the DOA.
- The court could overturn DOA if its hearing was unfair or DOA abused its discretion.
- Court resources are used more efficiently by handling these cases as administrative appeals rather than new law suits.

### Section 3

- Under current law, an executive agency can set up a claim procedure separate from DOA.
- But under a recent supreme court case, claims against the legislative and judicial branches must be submitted through DOA.
- This decision was based on the way the statute is written now.
- Section 3 would change the statute to give the legislative and judicial branches the same power as the executive branch to set up separate claims procedures.

# Memorandum

Alaska Court System

TO:

Arthur H. Snowden, II  
Administrative Director

DATE : March 5, 1986

FROM:

Karla L. Forsythe *Karla L. Forsythe*  
Staff Counsel

SUBJECT: SB 412 - Analysis

You asked me to outline the provisions of SB 412, an act relating to claims against the state, and to compare the proposed changes with existing law.

Under current law, a person who has a claim against the state for reimbursement for money, or for compensation for labor, materials or supplies furnished or services given to or for the state, must first submit the claim to the appropriate administrative officer. If that officer disallows all or part of the claim, the person may seek review through the Department of Administration. If the Department of Administration disallows the claim, the person must file a new action in superior court in order to pursue the claim.

Sections 1 and 2 of SB 412 would change this procedure by eliminating the requirement that a claimant file a completely new lawsuit. Instead, the person would follow the judicial review provisions of the administrative procedure act (AS 44.62.560-.570) by filing a notice of appeal with the superior court. The court would review the hearing record compiled by the Department of Administration, and could overturn the decision if it found that the agency did not have jurisdiction, that the hearing was not fair, or that there was a prejudicial abuse of discretion. Court resources would be used more efficiently by handling these claims as administrative appeals rather than new lawsuits.

Under current law, an executive branch agency can establish a claims procedure which is independent from the Department of Administration. However, under a recent Alaska supreme court decision interpreting AS 44.77.070, claims against the legislative and judicial branches must be submitted through the Department of Administration (State v. Dupere, No. 2995, November 22, 1985). Section 3 of SB 412 would permit the legislative and judicial branches to establish separate claims procedures, giving them the same option available under current law to executive branch agencies.

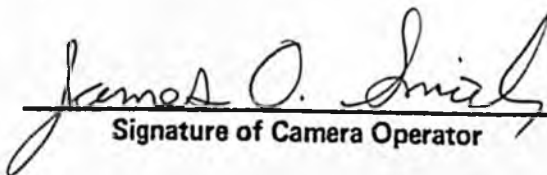
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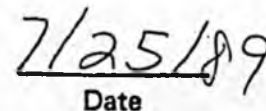


# RECORDS CERTIFICATION



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Signature of Camera Operator

  
Date

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# STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary

4-29-86

1:30 pm

4-30-86

8:00 am

"

"

**HOUSE  
COMMITTEE REPORT**

(7)

Date referred: 4/23/86

FURTHER REFERRALS: FINANCE

DATE: \_\_\_\_\_

The JUDICIARY Committee has considered SSSB 421

"An Act relating to attachment and assignment of permanent fund dividends; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with \_\_\_\_\_  same title
- \_\_\_\_\_  new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

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SIGNING OTHER RECOMMENDATIONS:

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Chairman

Original sponsors: P. Fischer and DeVries

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 421 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to attachment and assignment of  
7 permanent fund dividends; and providing for an  
8 effective date."

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

10 \* Section 1. AS 43.23.065 is amended by adding new subsections to read:

11 (b) AS 09.38 does not apply to permanent fund dividends taken to  
12 satisfy debts under (a)(1) - (3) of this section.

13 (c) A voluntary assignment of a permanent fund dividend to  
14 satisfy a debt of a type listed under (a)(1) - (3) of this section  
15 shall be granted the priority provided for under (a) of this section  
16 in the same manner as an involuntary attachment.

17 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
18 10.070(c).

Cook ✓  
4/30/86

Original sponsors: P.Fischer and DeVries

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 421 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to attachment and assignment of  
7 permanent fund dividends; and providing for an  
8 effective date."

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

10 \* Section 1. AS 43.23.065 is amended by adding new subsections to read:

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12 satisfy debts under (a)(1) - (3) of this section.13 (c) A voluntary assignment of a permanent fund dividend to  
14 satisfy a debt of a type listed under (a)(1) - (3) of this section  
15 shall be granted the priority provided for under (a) of this section  
16 in the same manner as an involuntary attachment.17 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
18 10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No: SSSB 421  
Title: An act relating to attachment and assignment of Permanent Fund Dividends  
Sponsor: P. Fischer and DeVries  
Requestor: Senate Judiciary  
Date of Request: 3/5/86

FISCAL DETAIL

Agency Affected: Revenue  
BRU: Permanent Fund Dividend  
  
Components: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: Ervin B. Jones  
Division: Administrative Services

Phone: 465-2313  
Date: 4/17/86

Approved by Commissioner: [Signature]  
Agency: Revenue

Date: 4/17/86

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 6, 1986

SUBJECT: Permanent Fund Dividends  
(SSSB 421)

TO: Representative Katie Hurley, Chair  
House State Affairs Committee

FROM: Tamara Brandt Cook  
Director  
Division of Legal Services

A bill relating to permanent fund dividends has been referred to your committee, SSSB 421. I wish to alert you to the fact that the title to the bill is defective in that it does not adequately reflect the subject of the bill as required under Article II, Section 13 of the state constitution. AS 09.38, dealt with under AS 43.23.065(b) in the bill, is a chapter relating to exemptions for certain property from levy, attachment and execution to satisfy debts. As such, it deals with more than attachment, which is all that is reflected in the title. AS 43.23.065(c) added in Section 1 of the bill deals with execution, which is distinct from attachment.

A better title for SSSB 421 would be "An Act relating to the use of permanent fund dividends to satisfy certain debts; and providing for an effective date." Under Rule 24(c) of the Uniform Rules a committee of the second house is prohibited from amending a bill in a way that will require a title change, except that the committee may make a clerical or technical change to the title. Correcting the title problem contained in SSSB 421 is the type of technical change which can be accomplished by a committee of the second house pursuant to the rule. Therefore, I recommend that the State Affairs Committee consider reporting out a committee substitute for SSSB 421 correcting the title.

If I can be of any assistance to the committee in dealing with this bill, please let me know.

TBC:mkr  
m4/090



Official Business

# Alaska State Legislature

## Senate

SENATOR PAUL FISCHER

Pouch V  
State Capitol  
Juneau, Alaska 99811

To: House State Affairs Committee Members

From: Senator Paul Fischer *P.F.*

Date: April 17, 1986

Subject: Backup material for SSSB 421.

Attached is the backup material for SSSB 421. Included for your consideration is the following:

- (1) Summary of the effects of SSSB 421.
- (2) Copy of SSSB 421.
- (3) Zero fiscal note.
- (4) Sectional analysis of SSSB 421.
- (5) Copies of the relevant statutes (AS 43.23.065 and AS 09.38.010)



# Alaska State Legislature

## Senate

Official Business

SENATOR PAUL FISCHER

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: House State Affairs Committee Members

FROM: Senator Paul Fischer

DATE: April 16, 1986

SUBJECT: SSSB 421, permanent fund dividend attachment.

This measure, if enacted, would facilitate the attachment of an individual's permanent fund dividend for payment of child support, court ordered restitution, or debts to the state.

By making SSSB 421 law, we would be streamlining the procedures used to accomplish the purposes of prioritized debts under AS 43.23.065.

SSSB 421 would eliminate some procedural hurdles, established to protect property rights, that should not apply when an individual owes a prioritized debt.

Whether the debt is child support, victim's restitution, a criminal court fine, attorney fees for the public defender agency, or other debts to the state, this bill will eliminate the procedural maze which effectively prevents the use of permanent fund dividends for satisfaction of that debt. This legislation accomplishes this while still protecting the rights of the debtor.

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SSSR 421  
 Title : Act relating to attachment  
and assignment of permanent fund  
dividends  
 Sponsor : Senator P. Fischer  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : All  
 BRU : \_\_\_\_\_  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS :**

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

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

Prepared by : \_\_\_\_\_  
 Division : Senator Jan Faiks, Co-chairman  
Senate Finance Committee

Phone : 465-4523

Date : 3/20/86

Approved by Commissioner : \_\_\_\_\_

Date : \_\_\_\_\_

Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA  
THE LEGISLATURE

FOUCHY STATE CAPITOL  
JUNEAU ALASKA 998  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 4, 1986

SUBJECT: Sectional Analysis of SSSB 421

TO: Senator Paul Fischer

FROM: Tamara Brandt Cook *TBC*  
Director  
Division of Legal Services

Section 1. The statute dealing with exemption of permanent fund dividends from levy, execution, garnishment, attachment or other remedies for the collection of debt is amended. Under existing law the exemption is not available for dividends taken to satisfy child support obligations, a debt owed to an agency, or a court ordered restitution under certain statutes. Under this bill, for these types of non-exempt situations, AS 09.38 (Alaska Exemptions Act) does not apply. Execution is not accomplished under the general chapter on executions (AS 09.35) but rather, it is accomplished by serving a certified copy of the judgment on the commissioner of revenue. In addition, a voluntary assignment of a dividend to satisfy one of the debts of a type that is not exempt under existing law is to be granted the same priority as would be granted under existing law for an involuntary attachment.

Sec. 2. The Act has an immediate effective date.

TBC:mkr  
m3/118

**Sec. 43.23.065. Exemption of permanent fund dividends.** Fifty percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. An exemption is not available under this section for permanent fund dividends taken to satisfy (1) child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 — 47.23.220; (2) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired; or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100. A child support obligation under (1) of this section has priority over a debt owed to an agency of the state or court ordered restitution, and a permanent fund dividend may not be taken to satisfy a debt under (2) of this section until any portion of the dividend necessary to satisfy a child support obligation and court ordered restitution has been taken. (S 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 57 SLA 1985)

**Revisor's notes.** — Sections 12 and 13, ch. 99, SLA 1985, amend this section and add new (b) and (c). The amendments are effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendments become law, the section will read: "(a) Fifty percent of a cash permanent fund dividend payment is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. An exemption is not available under this section for cash permanent fund dividend payments taken to satisfy (1) child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 — 47.23.220; (2) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired; or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100. A child support obligation under (1) of this section has priority over a debt owed to an agency of the state, and a permanent fund dividend may not be taken to satisfy a debt under (2) of this section until any portion of the dividend necessary to satisfy a child support obligation has been taken.

"(b) The department shall require an individual to take 100 percent of the permanent fund dividend in cash if the department receives a levy, execution, garnishment, attachment or other legal remedy for the collection of a past due debt described in (a)(1) or (2) of this section.

"(c) The courts of this state may, as a condition of any civil judgment or restitution order under AS 12.55.045 — 12.55.051 or 12.55.100, require the defendant to take the defendant's permanent fund dividend in cash."

Section 22, ch. 99, SLA 1985 provides for an advisory vote to be held at the general election in 1986. For the text of that provision, see § 22, ch. 99, SLA 1985 in the Temporary and Special Acts.

**Effect of amendments.** — The 1984 amendment added the last sentence and, in the next-to-last sentence, substituted "An exemption is not" for "No exemption is," inserted "(1)," and added the language beginning with "(2) a debt" at the end of the sentence. Section 2, ch. 157, SLA 1984 limits the application of the 1984 amendment to dividends issued for 1984 and subsequent years.

The first 1985 amendment added "or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100" at the end of the next-to-last sentence and in

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The 1984  
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the last sentence inserted "or court ordered restitution" and "and court ordered restitution."

The second 1985 amendment, effective

**Sec. 43.23.075. Eligibility for public assistance.**

**Revisor's notes.** — Section 14, ch. 99, SLA 1985, amends this section. The amendment is effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendment becomes law, the section will read: "(a) In determining the eligibility of an individual under a public assistance program administered by the Department of Health and Social Services in which eligibility for assistance is based on financial need, the Department of Health and Social Services may not consider a permanent fund dividend as income or resources received by the recipient of public assistance or by a member of the recipient's household unless required to do so by federal law or regulation. The Department of Health and Social Services shall notify all recipients of public assistance of the effects of a permanent fund dividend credit or cash payment.

"(b) An individual who is denied medical assistance under 42 U.S.C. 1396 — 1396p (Social Security Act, Title XIX) solely because of the credit or receipt of a permanent fund dividend by the individual or by a member of the individual's household is eligible for state-funded medical assistance under the general relief assistance program (AS 47.25.120 —

**Sec. 43.23.095. Definitions.**

**Revisor's notes.** — Section 15, ch. 99, SLA 1985, amends (6) of this section. The amendment is effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendment becomes law, the paragraph will read: "(6) 'permanent fund dividend' means a credit to an annuity account or a cash payment under this chapter."

In addition, § 16, ch. 99, SLA 1985, also effective upon the repeal of § 1, ch. 99, SLA 1985, enacts AS 43.23.110 — 43.23.130. If § 16, ch. 99, SLA 1985 becomes law, the new sections will read:

**"Article 2. Annuity Program.**

**"Sec. 43.23.110. Annuity investment fund.** (a) The annuity investment fund is established as a separate fund in the state

if § 1, ch. 99, SLA 1985 is repealed, rewrote subsection (a) and added subsections (b) and (c).

47.25.300) The individual is entitled to receive, for a period not to exceed four months, the same level of medical assistance as the individual would have received under 42 U.S.C. 1396 — 1396p (Social Security Act, Title XIX) had there been no permanent fund dividend program.

"(c) An individual who is denied assistance solely because permanent fund dividends credited to or received by the individual or by a member of the individual's household are counted as income or resources under federal law or regulation is eligible for cash assistance under the general relief assistance program (AS 47.25.120 — 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual is entitled to receive, for a period not to exceed four months, the same amount as the individual would have received under other public assistance programs had there been no permanent fund dividend program."

Section 22, ch. 99, SLA 1985 provides for an advisory vote to be held at the general election in 1986. For the text of that provision, see § 22, ch. 99, SLA 1985 in the Temporary and Special Acts.

treasury. The annuity investment fund consists of money transferred from the dividend fund and income earned by the annuity investment fund. Notwithstanding AS 37.13.145, an amount equal to the permanent fund dividends taken as annuity credits under this chapter shall be annually transferred from the dividend fund to the annuity investment fund.

"(b) Money in the annuity investment fund shall be invested by the commissioner of revenue in investments authorized under AS 29.35.110. The commissioner of administration shall credit the net income of the annuity investment fund to the individual annuity accounts.

"(c) The legislature may annually appropriate to the Department of Administration an amount sufficient to pay

monthly annuity investment fund. The annuity investment fund shall be transferred from the dividend fund to the Department of Administration in order to maintain the annuity program.

"(d) The legislature shall appropriate from the annuity investment fund an amount equal to the annuity payments for the annuity program. The annuity payments shall be allocated to the individual annuity accounts.

"(e) Notwithstanding any other provision of this section, revenue may be derived from annuity investment fund insurance contracts and insurance companies' ratings. Best's financial rating shall be a factor in the purchase of annuity contracts.

**"Sec. 43.23.110.** (a) The annuity investment fund shall be established by the commissioner of revenue. The commissioner shall adopt regulations to govern the annuity program.

"(b) The commissioner shall maintain an annuity investment fund account under AS 43.23.110.

**"Sec. 43.23.115.** (a) An individual who is entitled to an annuity credit upon reaching the age of 65 shall be eligible to receive the annuity credit upon reaching the age of 65.

"(b) An annuity credit shall be paid monthly and accrued interest shall be added to the annuity account as a straight line annuity investment plan annuity. The size of the annuity credit shall be based on account of the

**Chapter**

**Section 80 Transfer of a**

Editor's notes. - This section is set out above to correct a minor error in the main pamphlet

Chapter 38. Alaska Exemptions Act.

Section 30. Exemption of earnings and liquid assets	Section 115. Adjustment of dollar amounts
--	--

Sec. 09.38.010. Homestead exemption.

NOTES TO DECISIONS

Avoidance of judicial lien to extent of impairment of homestead exemption. — Section 522(f) of the Bankruptcy Code provides that "the debtor may avoid the fixing of a [judicial] lien on property to the extent that such lien impairs an exemption." To determine whether there is such an impairment of a homestead exemption, the following steps are taken by the court: (1) all liens are ranked in order of priority (and equity, if any) to the extent of the value of

the property; (2) the gross amount of the homestead exemption is subtracted from the value of the property; and (3) from the remainder left, each lien is subtracted, one at a time, beginning with the most senior lien, until a judicial lien is reached. Then the judicial lien is subtracted. To the extent that all or any portion of the judicial lien exceeds the remainder derived in (2), above, it is voidable. In re Duncan, 43 Bankr. 833 (Bankr. D. Alaska 1984).

Sec. 09.38.030. Exemption of earnings and liquid assets. (a) Except as provided in (b) and (c) 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 \$175. 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 \$700, except as provided in AS 09.38.050. The term "liquid assets" includes deposits, securities, notes, drafts, accrued vacation pay, refunds, prepayments, and receivables.

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

(1) enforce or  
(2) enforce U.S.C. 1301  
(d) If the garnishmen  
(e) The fo AS 09.38.01 individual, s assets under  
(1) benefit  
(2) money nance;  
(3) proceed rights accru wrongful de individual w:  
(4) proceed if the individ  
(5) amount annuity, or s age, illness, c § 36 ch 6 SLA

Effect of am amendment chan

Sec. 09.38. amounts in th to and to the Urban Consum the Bureau of (the index). T becomes effect  
(b) The doll year if the pe percentage po year and the r  
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Act.

r amounts

as amount of the subtracted from and (3) from the is subtracted. with the most lien is reached. To be subtracted. To be portion of the remainder de- voidable. In re Ankr. D. Alaska

l assets. (a) 9.38.050, an tual debtor's arnings of an eekly gross ithheld. The y basis are ings of the ithheld and ings of an rmined by ns required mainder by

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and (b. of

(1) enforceable against exempt property under AS 09.38.065(a)(1); 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, 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. (S 2 ch 62 SLA 1982; am § 36 ch 6 SLA 1984)

Effect of amendments. — The 1984 reference in paragraph (2) of subsection amendment changed the federal statutory (c).

Sec. 09.38.115. Adjustment of dollar amounts. (a) The dollar amounts in this chapter change, as provided in this section, according to and to the extent of changes in the Consumer Price Index for all Urban Consumers for the Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics, United States Department of Labor (the index). The index for January of the year in which this section becomes effective is the reference base index.

(b) The dollar amounts change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for November of the preceding year and the reference base index, is 10 percent or more, but

(1) the portion of the percentage change in the index in excess of a multiple of 10 percent is disregarded and the dollar amounts change only in multiples of 10 percent of the amounts appearing in this chapter on August 26, 1982; and

(2) the dollar amounts do not change if the amounts required by this section are those currently in effect as a result of earlier application of this section.

This bill is intended to facilitate the attachment of an individual's permanent fund dividend for the payment of child support, court ordered restitution, or debts to the state.

Currently there exists a legal dispute as to whether a permanent fund dividend is subject to the exemption procedures in the Alaska Exemption Act, AS 09.38, when the permanent fund dividend is being sought for a debt prioritized under AS 43.23.065 (1-3). While arguments as to the applicability of AS 09.38 can be made, this legislation directs that when a judgment is rendered by a court for child support, victim restitution or a debt to the state, then the individual cannot claim that the permanent fund dividend is exempt from attachment.

Additionally, the execution procedures existing in AS 09.35 would no longer be applicable to attachment of a dividend for a prioritized debt. This change would not foreclose due process for dividend receipts, rather the legislation directs the Department of Revenue to adopt procedures whereby a recipient receives notice of the attachment and the opportunity to raise a defense to it, e.g., the debt has been paid, or this is the debt of this particular dividend recipient. Of course these debts have already been reduced to judgments in other forums, so that substantive defenses are precluded.

The final provision in this bill would recognize situations where individuals, having incurred a prioritized debt, cooperate and voluntarily assign their dividends to satisfy that debt. Currently, a voluntarily assigned dividend for a prioritized debt, is given no greater priority than any other involuntary attachment for an unprioritized purpose. Rather, it is strictly a matter of which is filed first, thus belying the purposes of priorities set out in AS 43.23.065.

With passage of this legislation, we would be streamlining procedures to accomplish the purposes of prioritized debts under this statute. By dispensing with procedural hurdles established to protect property rights that should not apply when an individual owes a prioritized debt, we facilitate use of permanent fund dividends for a greater purpose. For whether the debt is child support, victim restitution, criminal court fines, attorney fees for the public defender agency, or other debts to the state, we should eliminate procedural mazes which effectively prevent use of a permanent fund dividend for satisfaction. And this legislation does that while still protecting rights of the debtor.

Department of Revenue  
Administrative Services Division  
Fiscal Note Analysis  
SSSB 421

Assumptions:

1. It is assumed that the substance of AS 09.38, related regulations and the volume of court history, interpreting those laws would not apply to attachments for Child Support Enforcement, debts to state agencies, or court ordered restitution and cannot be relied upon as a basis for such attachments.
2. It is assumed that all attachments which arise from a court judgment will be served as a certified copy of judgment and that attachments arising from administrative decisions (e.g. tax liabilities, child support orders) will continue to be served in the existing way.
3. It is assumed that AS 09.40.010 will apply to all prejudgment attachments.

Program Summary:

AS 43.23.065 was originally enacted to offer protection to 50% of an applicant's dividend from the standard remedies for collection of debts - levy, execution, garnishment, and attachment. These attachments arise from either court orders or from administrative remedies found in federal and state law.

This protection is specifically not offered in three cases:

- 1) child support obligations required by court order or decision of the Child Support Enforcement Division;
- 2) debts owed to a state agency, where appeals have been exhausted; and
- 3) court ordered restitution

In these cases, 100% of the dividend is subject to attachment.

In 1985, the Department of Revenue received and processed 15,008 attachment orders, of which 12,123 were accepted. Of these, the above three categories accounted for the following number of attachments:

- 1) CSED - 1,297
- 2) State debts - 1,286
- 3) Restitution orders - 3

The attachments can be served as Writs of Execution, arising from a court judgment or as an Order to Withhold arising from an administrative decision. The attachments are served either on paper or by magnetic tape. The paper attachments are manually entered into the PFD system, identifying the person's record as one to be attached upon payment. The magnetic tape match does basically the same thing. Because of the huge volume of attachments, and because there is only one employee to process them, the Department of Revenue has been encouraging tape matches for those creditors who are large and sophisticated enough to handle it (e.g. Child Support Enforcement, IRS, Department of Labor). Those serving the

Program Summary (con't)

department with attachments may release the attachment up until the time the dividend is paid. This occurs when the debtor has satisfied the debt by other means. Releases are all done manually by entering a status change in the file. The PFD system includes a "garnishment" subsystem which processes payments in priority order once an attached dividend comes up for payment. In cases where a residual amount is due the applicant, the subsystem also produces that warrant.

In each case where an individual's dividend is attached, in whole or in part, the Department of Revenue sends the applicant a notice indicating how much was taken, and by whom. This notice also provides a telephone number at which the process server can be contacted.

The changes proposed would require the Document Processing section of Administrative Services - PFD to do the following:

- 1) modify the voluntary assignment to explain the changes;
- 2) review all voluntary assignments to determine those falling under AS 43.23.065(d) as proposed;
- 3) modify the Attachment sub-system of the PFD system to recognize the new priority of such voluntary assignments.

1. Positions: None

2. Other Expenditures: None

Funding: N/A

Section Cost Analysis: N/A

Computations: N/A

Impact on Local Government: N/A

Attachments: None

Suggested Revisions: None



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*James O. Smith*  
\_\_\_\_\_  
Signature of Camera Operator

*7/25/89*  
\_\_\_\_\_  
Date

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STATE OF ALASKA  
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May, 1986

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Jeanie Henry

House Judiciary	5-10-86	8:00 AM
" "	5-10-86	2:00 pm

HOUSE  
COMMITTEE REPORT

(7)

Date referred: 5/1/86

FURTHER REFERRALS: FINANCE

DATE: \_\_\_\_\_

The JUDICIARY Committee has considered CSSB 423(SA) am  
"An Act creating a missing persons information clearinghouse."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with HCS CSSB 423 (JUD) ] same title
- ] new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

[Signature]  
[Signature]  
ROD E. PELL  
[Signature]  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

SIGNING OTHER RECOMMENDATIONS:

Pass original Bill Robin Taylor  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

[Signature]  
 Chairman

Original sponsor: Faiks

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 423 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating a missing persons information clear-  
7 inghouse."

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

9 \* Section 1. AS 18.65 is amended by adding new sections to read:

10 ARTICLE 7. MISSING PERSONS INFORMATION CLEARINGHOUSE.

11 Sec. 18.65.600. MISSING PERSONS INFORMATION CLEARINGHOUSE.

12 There is in the Department of Public Safety the missing persons infor-  
13 mation clearinghouse.

14 Sec. 18.65.610. DUTIES OF MISSING PERSONS INFORMATION CLEARING-  
15 HOUSE. (a) The missing persons information clearinghouse is estab-  
16 lished as a central repository of information regarding missing per-  
17 sons.

18 (b) The clearinghouse shall

19 (1) establish within the state a system and appropriate  
20 procedures for communication of information regarding missing persons;

21 (2) collect, maintain, and disseminate accurate and com-  
22 plete information on missing persons for the purpose of identifying,  
23 locating, and returning them;

24 (3) provide for exchange of information on missing persons  
25 within the state;

26 (4) cooperate with private citizens, local law enforcement  
27 agencies, and other state and federal agencies in investigations con-  
28 cerning missing persons;

29 (5) maintain communication with the National Crime

1 Information Center for exchange of information on persons suspected of  
2 interstate travel;

3 (6) provide training and assistance to law enforcement  
4 agencies to promote effective use of the clearinghouse.

5 Sec. 18.65.620. DUTY OF LAW ENFORCEMENT AGENCIES. All local and  
6 state law enforcement agencies shall submit to the clearinghouse all  
7 missing person reports received by the law enforcement agency if the  
8 missing person is not located within 72 hours after the report was  
9 filed.

10 Sec. 18.65.630. MEDICAL AND DENTAL RECORDS OF MISSING PERSONS.

11 (a) When a person files a report of a missing person with a law  
12 enforcement agency or with the clearinghouse, a form authorizing the  
13 release of medical and dental records to the law enforcement agency  
14 and to the clearinghouse shall be supplied to the family, next of kin,  
15 or legal guardian of the missing person. The family, next of kin, or  
16 legal guardian of the missing person may complete the release form and  
17 deliver the release form to the physician or dentist of the missing  
18 person. The physician or dentist who receives a release form signed  
19 by the family, next of kin, or legal guardian of the missing person  
20 may only release the medical or dental records to the law enforcement  
21 agency and the clearinghouse.

22 (b) When the family, next of kin, or legal guardian of a missing  
23 person cannot be located or does not exist, a law enforcement officer  
24 may file a written petition in court stating that an active investi-  
25 gation is being conducted, that medical and dental records are  
26 required for the exclusive purpose of furthering the investigation,  
27 and that the family, next of kin, or legal guardian of a missing  
28 person cannot be located. The court may issue an order for the  
29 release of medical and dental records necessary for the identification

1 of a missing person, if after a hearing on the petition the court  
2 finds that (1) an active investigation is in progress to locate a  
3 missing person; (2) medical and dental records are necessary for the  
4 investigation; and (3) the family, next of kin, or legal guardian of a  
5 missing person cannot be located after a diligent search or does not  
6 exist. The order shall state that medical and dental records shall be  
7 used only for the purposes of locating the missing person and that  
8 only medical or dental records necessary to identify the missing  
9 person may be released.

10 (c) The physician or dentist who receives a court order or  
11 release form under this section may only release that information that  
12 is necessary to identify the missing person.

13 (d) Medical and dental records obtained under this section shall  
14 be provided to the clearinghouse; however, information provided to the  
15 clearinghouse may not leave the state or be filed in a computer system  
16 or network not controlled by a state agency.

17 (e) When a missing person is found, the law enforcement agency  
18 and the clearinghouse shall destroy, immediately upon notification,  
19 all records in their files obtained under this section in relation to  
20 the previously missing person.

21 Sec. 18.65.640. REPORTS UPON FINDING A MISSING PERSON. (a) A  
22 person who has filed a missing person report with the clearinghouse or  
23 a law enforcement agency shall immediately notify the clearinghouse or  
24 the law enforcement agency when the location of the missing person is  
25 determined.

26 (b) The law enforcement agency and the clearinghouse shall  
27 inform the person who has filed a missing person report of the penalty  
28 under AS 18.65.650(b) for failure to report that a missing person has  
29 been located.

1           Sec. 18.65.650. PENALTY. (a) A person in an agency who know-  
2 ingly fails to perform a duty under AS 18.65.620 - 18.65.630 or who  
3 knowingly uses information obtained under AS 18.65.600 - 18.65.660 in  
4 a manner not necessary for a missing person investigation is liable in  
5 a civil action to a person harmed by the failure to perform the duty  
6 for a penalty of not more than \$10,000.

7           (b) The commissioner of public safety, or a person designated by  
8 the commissioner of public safety, may file a civil complaint in the  
9 district court to enforce AS 18.65.640. A person who fails to comply  
10 with AS 18.65.640 is subject to a civil fine of not more than \$1,000.

11           Sec. 18.65.660. DEFINITION. In AS 18.65.600 - 18.65.660 "clear-  
12 inghouse" means the missing persons information clearinghouse estab-  
13 lished in AS 18.65.600.

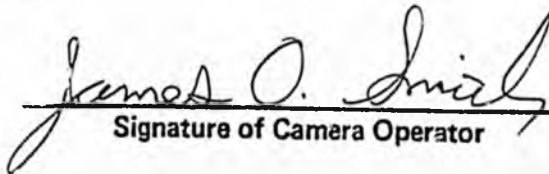
14 \* Sec. 2. AS 18.60.170 is amended to read:

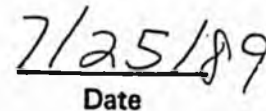
15           Sec. 18.60.170. REPORT AND INVESTIGATION OF DISAPPEARANCE. The  
16 commissioner of public safety or ~~the~~ commissioner's [HIS] designee  
17 shall file each notification of disappearance with the missing persons  
18 information clearinghouse under AS 18.65.620 [IN ALPHABETICAL ORDER IN  
19 HIS OFFICE], and shall notify the peace officer in the district where  
20 the disappearance occurred or in the nearest districts where there is  
21 a peace officer to make an investigation regarding the disappearance.  
22 If the circumstances give reasonable grounds for suspicion that a  
23 murder has been committed or that a person has met with foul play, the  
24 peace officer shall report all the facts to the district attorney in  
25 the peace officer's [HIS] district or the assistant district attorney  
26 living nearest the place where the peace officer [HE] resides. The  
27 district attorney or the assistant district attorney shall assist and  
28 advise the peace officer in the [HIS] investigation.



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Signature of Camera Operator

  
Date

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May, 1986

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Jeanie Henry

House Judiciary 5-8-86

8:00 AM

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SB 466  
 Title : Extending the termination  
date of the ABC Board  
 Sponsor : Senate HESS Committee  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : All  
 BRU : \_\_\_\_\_  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	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						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS :**

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

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

Prepared by : \_\_\_\_\_ Phone : 465-4523  
 Division : Senator Jan Faiks, Co-chairman Date : April 28, 1986  
Senate Finance Committee  
 Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note) :

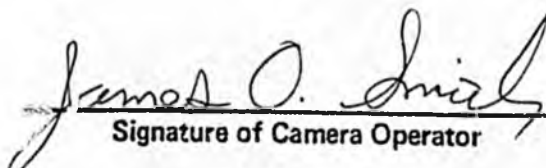
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

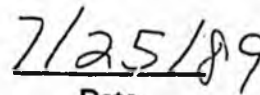


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907-465-3000

May, 1986

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Jeanie Henry

House Judiciary

5-9-86

1:30 pm

LAW OFFICES OF  
*Reginald J. Christie, Jr.*  
307 EAST NORTHERN LIGHTS BOULEVARD  
SUITE 200  
ANCHORAGE, ALASKA 99503  
(907) 276-0924

May 9, 1986

Representative Mike Miller  
House of Representatives  
State Capital  
Juneau, Alaska 99811

RE: Proposed Amendments to AS 34.08.470 (Lien for Assessments/  
Uniform Common Interest Ownership Act) (House Bill 470)

Dear Mr. Miller:

I have worked extensively as a lawyer in the condominium and planned unit development field for 15 years. During this period of time I have prepared legal documents for not less than 50 condominiums and PUDs, and have represented owners' associations.

While I believe it reasonable and necessary for a condominium owners' association to have the ability to foreclose its assessment lien by summary proceedings, AS 34.08.470 as it is now written will not work for this purpose.

AS 34.08.470(j)(1) and (4) purport to give a condominium owners' association the right to foreclose an assessment lien under the non-judicial deed of trust foreclosure procedure set forth in AS 34.20.070 et seq.

The legal basis for a non-judicial or summary foreclosure under AS 34.20.070 is found in its first sentence:

Section 34.20.070. SALE BY TRUSTEE. (a) If a deed of trust is executed conveying real property located in the state to a trustee as security for the payment of an indebtedness and the deed provides that in the case of default . . . the trustee may sell the property for a condition broken, the trustee, . . . may execute the trust by sale of the property, . . . without first securing a decree of foreclosure and order of sale from the court . . . . (emphasis added)

Representative Mike Miller  
May 9, 1986  
Page Two

Thus, unless there is a conveyance of a condominium unit to a trustee, the unit can not be sold by a trustee to satisfy the association's lien. In short, there is a very significant legal difference between an assessment lien, and the lien of a deed of trust. A purported extra judicial sale under AS 34.20.070 to satisfy an assessment lien would pass no title as the "trustee" never was conveyed title.

I have discussed this provision with representatives of three title insurance companies doing business in the Anchorage area who concurred with the foregoing analysis and indicated that their companies would not insure title acquired through such a procedure.

Sincerely,

  
Reginald J. Cariste, Jr.

RJC:slt

**ALASKA MORTGAGE BANKERS ASSOCIATION**

P.O. BOX 4-2691/ANCHORAGE, ALASKA 99509

May 1, 1986

Honorable M. Mike Miller  
Chairman, Judiciary Committee  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

RE: Senate Bill 470  
Uniform Common Interest Ownership Act

Dear Representative Miller:

We understand the subject bill has been referred to the House Judiciary Committee, which has a hearing scheduled for May 9th.

We urge quick passage of the bill, so that the problems encountered with the current law can be cleared up in this session.

Sincerely,



Lucille Stietz  
President

LS:ga

**ALASKA MORTGAGE BANKERS ASSOCIATION**

P.O. BOX 4-2691/ANCHORAGE, ALASKA 99509

May 8, 1986

Honorable Mike Miller  
Chairman, House Judiciary Committee  
Pouch V (MS 3100)  
Juneau, Alaska 99801

Re: SB 470  
Uniform Common Interest Ownership Act

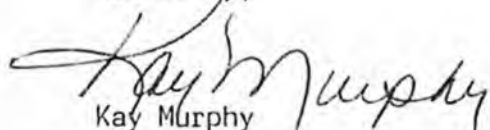
Dear Representative Miller:

The Alaska Mortgage Bankers Association has worked closely with various industry groups over the past four years to seek amendments to the Uniform Common Interest Ownership Act. The purpose of these efforts was to have a law providing full disclosure on real estate purchases yet, at the same time, protect Homeowners Associations and maintain the ability to finance and insure common interest properties.

We understand there are concerns by some about the repeal of the non-judicial foreclosure presently available to Homeowners Associations in the event of default in payment of dues by a unit owner. The purpose of this letter is to inform you that it would be in the best interest of a lender, as either a loan servicer or holder of the mortgage, to work with Homeowner's Associations when a default in payment of dues occurs. Counseling of the borrowers regarding their obligation to pay homeowners dues and assisting the association in collection of the dues would be a prudent consideration of any mortgage servicer.

As has been indicated in our previous written testimony regarding SB 470, we urge a quick passage of this bill so that financing and insuring of properties in common interest communities can continue without restriction. We understand that additional amendments may be desired; however, SB 470, in its present form, takes care of the majority of concerns brought forth since the effective date of the Act.

Sincerely,

  
Kay Murphy  
Vice President

KM:rm

**ALASKA MORTGAGE BANKERS ASSOCIATION**

P.O. BOX 4-2691/ANCHORAGE, ALASKA 99509

April 4, 1986

Members  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: Senate Bill 470

Honorable Senators and Representatives:

The Alaska Mortgage Bankers Association recommends passage of Senate Bill 470.

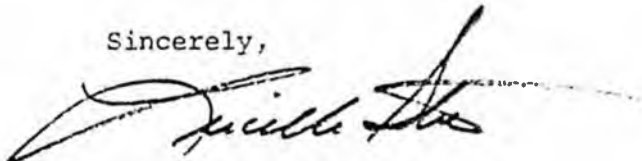
The Uniform Common Interest Ownership Act took effect on January 1, 1986. The law provides for disclosure of certain information to purchasers of property in common interest communities as well as defining those communities. We support the intent of the law and the disclosure requirements on large and/or structured common interest communities.

It became apparent when implementing the law that certain refinements were needed, especially as regards small and/or limited common interest communities. Our Association, along with others in the real estate industry have worked with legislative staff toward a goal of amending the law. Senate Bill 470 incorporates the refinements the industry felt were needed and should solve the problems encountered by the real estate industry, title companies, lenders and consumers in working with the Uniform Common Interest Ownership Act.

We feel passage of the bill would result in a workable law which encompasses the intent of the legislature and the intent of the Model Act.

Should you have any questions, we will be happy to discuss this at your convenience.

Sincerely,



Lucille Stietz  
Vice President  
07-265-2860

P.O. Box 101020, Anchorage, Alaska 99510

TO: Elizabeth Hickerson

DATE: March 11, 1986

FROM: Betty M. Cook *BMC*  
Mortgage Operations Director

Re: UCIOA - AHFC's Recommended Changes  
AS 34.08

Alaska Housing Finance Corporation is not opposed to the deletion of the words "or financing from the AHFC" from sections 34.08.020 and 34.08.030. Our testimony last year was not a request to have such language included, but a concern for disclosure protection for purchasers of units in small projects. If the legislators agree that these purchasers need the protection of this law, then purchasers need that protection whether or not AHFC is financing the project.

I believe our concern for small projects, especially those with high budgets, is still a valid and troublesome concern. I urge you not to delete "or financing from AHFC" without some compensating addition. This can be accomplished by changing the word "or" at the end of line 27 (Sec. 34.08.030) to "and." This will exclude communities that are both under 12 units and have budgets of less than \$100 per year/per unit rather than excluding projects that are either under 12 units or under \$100 per year.

If the legislators do not want to change the word "or" to "and", I strongly suggest some other method be found to require resale disclosure in small, high budget projects before AHFC is taken out.

Attached is an analysis of which projects would need to comply with the law as it currently reads; with "AHFC" deleted; and with "AHFC" deleted and the word "or" changed to "and." This analysis is general in nature and acknowledges that all projects fall under some provisions of the law (.720-.740). The chart was made to analyze the main concerns of the realtors and lenders.

SU

Attachment

CS SB 470 (Judiciary)  
An Act Relating to the Uniform Common Interest Ownership Act

The Uniform Common Interest Ownership Act became law last year. According to the realtors, bankers, title companies and homeowners associations, the law is working very well, particularly for condominiums.

The only real problem that has arisen involves certain planned communities, such as subdivisions, which have minimal responsibilities for road maintenance, common wells and septic systems. Homeowners associations have in many cases never existed or functioned.

This bill provides certain exceptions for these planned communities:

1. If the planned community has no development rights and its annual assessments per unit are less than \$100, then only three sections of the act apply: separate title and taxation; applicability of local ordinances; and eminent domain.

2. An alternative means of disclosure is allowed where there is no functioning association. The buyer can provide disclosures through an affidavit.

Certain housekeeping measures are also contained in the bill:

Associations may petition the court to amend their documents;

Associations must judicially foreclose their liens;

In addition, all newly created condominiums and cooperatives, regardless of size, are subject to the act. This is necessary because condominiums and cooperatives are creatures of statutory law, and therefore if these entities were not subject to the act, there is no common law under which they can be created.

This bill has been endorsed by:

Alaska Mortgage Bankers Association  
Alaska Land Title Association  
Alaska Association of Realtors  
Consumer Protection  
AHFC  
Attorneys who represent Associations

JUDICIARY COMMITTEE SUBSTITUTE  
SENATE BILL 470  
Sectional Analysis

Section 1.

AS 34.08.010 is amended to include the regulation of all residential condominiums and cooperatives under the common interest ownership act.

Section 2.

AS 34.08.030 is amended to apply only to planned communities in which there are no development rights and whose annual assessments are limited to \$100 per unit.

Section 3.

The wording of this new section was contained in the original AS 34.08.030. Due to the modifications to that section, the drafter recommended a new section be created.

Section 4.

AS 34.08.040 is amended to include AS 34.08.510 as an applicable section to preexisting common interest communities. AS 34.08.510 is referenced in AS 34.08.590 (Resale certificates) but was not included under AS 34.08.040. This addition clarifies the applicable sections.

Section 5.

A new section is added that gives associations the ability to petition the court in order to amend declarations. This is needed to modify declarations which have no provisions for amendments or whose declarations require a high percentage of unit owners to vote on amendments. Adequate due process provisions are included. This is adopted from the California law.

Section 6.

A new section is added that gives associations the ability to petition the court in order to extend the termination date of the declaration. This is needed where no provisions for extension are provided in declarations. Adequate due process provisions are included. This is adopted from the California law.

Section 7.

AS 34.08.470 is amended by repealing the nonjudicial lien foreclosure procedures under AS 34.20.070 (Deed of Trust) as apply to condominiums and planned communities. The remedy available under the Deed of Trust statute was intended to be available only to the

original parties to the deed, and thus is inappropriate for nonparties, particularly condominiums and planned communities.

Section 8.

AS 34.08.590 is amended by adding an alternative resale certificate for planned communities where there is no association or officers and where no assessments are collected.

Section 9.

This section was added in order to comply with the revisions to AS 34.08.020 and AS 34.08.030.

Section 10.

AS 34.08.020 is repealed. Cooperatives by nature are creatures of statutory law and should be regulated by the Common Interest Ownership Act.

SB470

# Alaska State Legislature



CO-CHAIRMAN  
FINANCE COMMITTEE

907-465-3740

JAN FAIKS  
FOUCH V  
CAPITOL BUILDING  
JUNEAU, ALASKA 99811

## Senate

March 27, 1986

### MEMORANDUM

TO: Senate Finance Committee Members

FROM: Jan Faiks, Co-Chairman  
Senate Finance Committee

SUBJECT: Finance Committee Sponsored Bill

With the committee's concurrence, I would like to introduce a committee sponsored bill which makes several amendments to the Uniform Common Interest Ownership Act which was approved by the Legislature last session.

The amendments are the result of recommendations offered by a joint industry committee consisting of representatives from the Alaska Realtors Association, AHFC, Alaska Land Title Association and the Association of Mortgage Bankers. Basically, the bill will do the following:

1. Clarifies the procedures which must be followed in planned communities (especially single family units) where there is limited common elements such as road maintenance and/or common wells. In planned communities, typically there is no homeowners association thereby making it not possible to comply with some of UCIOA's provisions such as the Association providing a re-sale certificate. Instead, the amendment provides for an alternative means of disclosing to potential buyers all obligations associated with the real estate.
2. Makes all condominiums subject to the Act (currently it pertains to those with 12 or more units).

OUT OF SESSION

1024 WEST SIXTH AVENUE, SUITE 302 ANCHORAGE, ALASKA 99501 907-274-6611



3. Provides an Association with the ability to go to court when it has a problem in amending its declarations (such as the inability to get 100% of the homeowners to agree due to absence from the property). This is patterned after a California law.

I would like to introduce the legislation on Friday, March 28th. As a result, would you please let me know if you have any problems associated with the committee's sponsorship of it.

Attached is a sectional analysis as well as draft of the bill. Should you have any additional questions, please let me know.

Thank you.

TO: SENATOR JAN FAIKS  
SENATOR RICK HALFORD

FROM: ELIZABETH J. HICKERSON

SUBJECT: UCIOA AMENDMENTS

DATE: MARCH 26, 1986

During the last month I have met on a number of occasions with representatives from the Joint Industry Committee which was formed to make recommendations concerning UCIOA. Based on their concerns and with legal advise from Don Buck and numerous Alaska lawyers that are engaged in the real estate practice, the attached draft bill was developed.

The following is a sectional analysis of the draft.

Section 1. AS 34.08.020 is amended as follows:

it is made clear that this section applies to cooperatives that are created after January 1, 1986; and,

financing from AHFC is deleted.

Problem solved: It is now clear which cooperatives are only subject to the universal sections, AS 34.08.720 - 740 (nonresidential or 12 units and no development rights). Financing from AHFC was a problem because as a practical matter, all cooperatives are or might be subject to this type of financing, and therefore the intent of the uniform act was frustrated.

Cooperatives in Alaska are few - three or four statewide - according to the people in the industry, so there will be little affect. However, if a cooperative is created after January 1, 1986, the declarant may opt in under the entire act.

Section 2. AS 34.08.030 is amended as follows:

the exemption only applies to planned communities not subject to development rights or whose assessments are limited to \$100 per unit annually;

financing from AHFC is deleted; and,

condominiums regardless of size are subject to the entire act under AS 34.08.010.

Problem solved: Planned communities with limited assessments and no development rights which are created after the date of this amendment are only subject to the universal sections. The entities which are

exempted must still provide disclosures based on the common law if they decide not to opt into the entire act.

Section 3. The provisions of this section were included under AS 34.08.030. With the amendments to that section, it was the determination of the drafter that a separate section be created.

Section 4. AS 34.08.040 is amended to include AS 34.08.510 as an applicable section for preexisting common interest communities.

Problem solved: This clarifies that AS 34.08.510 applies to preexisting communities. While this section is referenced in AS 34.08.590, which is an applicable section, this amendment removes any doubt.

A planned community which limits its annual assessments to \$300 in its declaration is not required to provide a public offering statement or a resale certificate under AS 34.08.510. This solves a number of problems for planned communities with limited responsibilities which do not have the ability to provide resale certificates.

Section 5. A new section is created which is based on the California law. Under this section, an association or unit owners may petition the court to amend their declaration when it has been impossible to secure the necessary number of votes. The petition must state what efforts have been made to solicit the approval of the unit owners, what amendments are sought, the effect of the amendments, etc. The court may not approve amendments which eliminate a special right, preference or privilege, or that would impair the security interest of a mortgagee. Numerous due process provisions are included.

Problem solved: This makes it possible for declarations to be amended when owners are absent or refuse to participate personally or through a proxy. (McNall recommendation)

Section 6. A new section is added that allows associations or unit owners to petition the court for an extension of the termination date contained in the declaration. This would be accomplished by utilizing the procedures contained in the above referenced Section 4. This is also based on the California statute.

Problem solved: This makes it possible for declarations to be amended when owners are absent or refuse to participate personally or through a proxy. (McNall recommendation)

Section 7. Amends AS34.08.470(j) by repealing the nonjudicial lien foreclosure procedure under AS 34.20.070 (Deed of Trust).

Problem solved: When this section was drafted a legal fiction was created. Associations could use the Deed of Trust provisions which

allow nonjudicial sale of property. The problem with this is that associations are not parties to the Deed of Trust. This drove the title people crazy. Most of the my time over the last week has been spent on this provision, trying to figure out what was the best way to go. After talking to no less than ten attorneys and a superior court judge and reviewing the comments to UCIOA carefully, I determined that this remedy should be repealed. Associations may still proceed under the lien foreclosure provisions of AS 34.35.005 or sue on a breach of contract.

If the banks will cooperate with associations and apply pressure on delinquent unit owners, then court action and its associated expense can be avoided.

Section 8. AS 34.08.590 is amended by adding an alternative resale certificate as follows:

Unit owners in a planned community that was created after January 1, 1986, not exempt under AS 34.08.050 (communities 12 and under), does not collect assessments and does not have an association or board members, may provide an affidavit instead of a resale certificate.

The affidavit must include:

a statement that no assessments are collected; date and amount of last assessments; and the reason that assessments ceased;

a statement that no association exists or no board/officers exist;

copies of the declaration, bylaws, rules, etc.;

a brief description of the real estate and all obligations associated with that real estate.

Problem solved: In situations where no associations exists and therefore it is impossible for a resale certificate to be provided, the unit owner is able to provide an affidavit that discloses the vital information associated with the property.

Section 9. A new section is added that concerns those condominiums that were created after January 1, 1986 but before the date of the amendment to AS 34.08.030. These entities relied on the law that existed at the time, and could have been exempted from the majority of the act at time of creation. It protects their interests, but provides that acts and occurrences after the effective date of the amendment will be regulated under AS 34.08.040.

Problem solved: The few condominiums created during this short period will be grandparented in under the provisions for preexisting common interest communities.

I have been told that these amendment will be endorsed by:

Alaska Realtors Association  
AHFC  
Alaska Land Title Association  
Association of Mortgage Bankers

Hayden

LAW OFFICES OF  
WILLIAM L. MCNALL  
3333 DENALI STREET  
SUITE 120  
ANCHORAGE, ALASKA 99503

WILLIAM L. MCNALL  
W. E. "GENE" BURDEN

AREA CODE 907  
TELEPHONE 276-2535

LEGAL ASSISTANTS:  
PENELOPE J. STANDLEY  
ANGEL H. HOLT

April 22, 1986

The Honorable Pat Pourchot  
Alaska State Legislature  
House of Representatives  
Pouch V  
State Capitol  
Juneau, AK 99811

Re: Senate Bill 470

Dear Representative Pourchot:

In response to your letter of April 7, 1986, I have reviewed SB 470 and make the following observations.

Section 1: The amendment to AS 34.08.020 removes and clarifies portions of this section which has caused some great confusion in the industry and I find that these corrections will be helpful.

Section 2: AS 34.080.030 is amended to remove the Alaska Housing Finance Corporation language which when reviewed, is very confusing. The lenders, attorneys and others were not sure what the wording "subject to any development rights or financing from the Alaska House Finance Corporation" meant. Since there was substantial room for argument over what that language might possibly mean, it was felt that it was best to leave Alaska Housing to its own discretion in the form of regulations and limitations on loan programs. Also, Section 2 clarifies the difference between a "planned community" and a common interest community such as a condo or coop. Generally speaking, the condominiums and cooperatives have substantial monthly assessments. It is the planned community, which is usually a single family subdivision with a common well, common road maintenance and so forth, which will have much smaller assessments than those of the condo. It was not the intention of the drafters to bring those small associations within the requirements of the act. I find no problems with this change.

Section 3 is again clarifying language to make sure that the act applies to all those areas that it should apply to and that a creative developer does not believe somehow that he can avoid the application of the act.

The Honorable Pat Pourchot  
Re: Senate Bill 470  
Continued page 2

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Section 4 is designed to avoid confusion over exactly which sections of the act apply to pre-existing communities, although the new section .510 is impliedly applicable because it is referenced in Section .590. Everyone feels more comfortable by specifically including it.

Section 5 is needed to deal with two specific scenarios. One is a situation where the association must have a membership vote to be allowed to do particular task; for example, approve an annual budget, hold an election or amend its documents. The association will have the right to seek the court's help in the event that the association cannot obtain the required quorum or the documents of the association simply don't allow the association to do what it is trying to do I am aware of one specific situation which I have shared with Senators Halford and Faiks previously. The association has a declaration that does not have a clause allowing amendment. The association cannot amend its declaration to do some of the things the association must do. In addition, even if you could argue that if 100% of the unit owners in a subdivision agreed and that they would sign a document consenting to an amendment, that may not be sufficient. In this particular situation, about 5 of the owners were directly opposed to what the board was trying to do. The possibility of getting 100% approval would be impossible. The other scenario that I can share with you is Eaglewood Owner Association, which is an association of 5 phases eventually totaling about 900 homes. There is presently about 700 homes in the subdivision. For this association to take the steps necessary to amend its documents to enjoy some of the benefits of the new act, it must garner approximately 600 votes. This means either a massive proxy solicitation or 600 owners attending a meeting. The board cannot afford to hire the personalities and physical location that it would take to get 600 people there, but, assuming we could have President Reagan show up for our homeowners association meeting, the chances of getting 600 of our 900 people out to the meeting would still be remote. This association has not been able to hold an election for the last three years and is able to proceed only because the documents allow the existing directors to appoint replacement directors for people who resign. At this point we have had unfilled terms that have lasted three years. A most unhappy result unforeseen by the developers and the drafters of the documents. This amendment to the act then allows the court to assist those associations.

The Honorable Pat Pourchot  
Re: Senate Bill 470  
Continued page 3

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Section 6 is to deal with documents that for some reason or other may not have an expiration date contained therein and a method for the association's members to continue the existence of the association.

Section 7: This section is the one that causes me the greatest amount of concern and needs some discussion. To collect unpaid assessments, the association really has under the existing law, three alternatives. One, they can file a small claims or district court action which requires retaining an attorney, going to court, getting a judgment, seeking an award of attorneys fees and cost; and then collecting the money, if and when you can locate the non-paying unit owner. This is a time consuming process. Often by the time that the association turns it over to me for collection, there will be 4 or 5 months worth of assessments outstanding. By the time we get into court for a hearing, an additional 3 or 4 month wait is added because of the length of time the legal process takes. By that time, the association will be in court seeking nine months worth of assessments. I would note paranthetically that the courts are not pleased to see the associations bring these claims against the unit owners and do not treat kindly arguments that the association is simply acting as a body of the unit owners responsible for running the association's common business and so on and so forth. The judges simply get frustrated with having to deal with a \$1,000 collection case and view the association's claims to enforce rules as "nuisances". I have heard one judge say that he does not believe associations should be allowed legal representation. I suppose this is reflective of an educational process that must go on with our judiciary. However, it is costly and frustrating for the association, as well as myself, to have to be the ones paying either in time or in money to educate our judiciary. The second method that an association has for pursuing collection of its unpaid assessments is to foreclose through a non-judicial deed of trust foreclosure. This is allowed by the Horizontal Property Regime act and that same language was brought forward into the Common Interest Ownership act. Oddly, at this point in time, the title insurance industry has decided to become concerned about this as an appropriate remedy for the associations. They have not been concerned for the last 22 years about this possibility, but seem to be concerned now. They claim that there is an issue related to the insurability of a title that might be obtained by an association through such a foreclosure process. The

The Honorable Pat Pourchot  
Re: Senate Bill 470  
Continued page 4

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arguments are of interest to me in light of the fact that the association is a a third party beneficiary of the contract entered into by the unit owner and the lender. The lender requires as part of its documentation that the unit purchaser agrees to comply with the rules and regulations of the association. As a matter of fact, AS 34.07.360 and .390 requires such compliance. The purchaser automatically becomes a member of the association and is obligated to comply with the association's bylaws, articles, declarations and so forth. All in all, I am not sure why the title insurance industry is taking this position. However, my explanation below might make it a little clearer to you why they might be doing so.

If the association can not collect through a non-judicial foreclosure, then the next option is to proceed to a judicial foreclosure. The difference between a non-judicial and a judicial foreclosure are set forth in the Statutes. The benefit of a non-judicial foreclosure is that it immediately cuts off the unit owner's right to the premises (no right of redemption) and the foreclosing party would also lose its right to any deficiency judgment. The process takes approximately 120 days and involves the filing a notice of default and requiring the giving of notice to everyone who has an interest in the property as well as anyone who may be in occupancy of the property. Usually for a non-judicial foreclosure, a title insurance company is contacted and a foreclosure guarantee is ordered in which all the parties that have an interest of record are described so that all the appropriate notices can be issued. Cost of such a notice is about \$300 and there is no court action necessary.

In a judicial foreclosure, however, an action must be filed with the court wherein the association would ask the court to allow the foreclosure to proceed. This action would be a Superior Court action. Once the other party is served, the action can be commenced. He then can respond and eventually a hearing will be held wherein the court may allow the association to proceed to foreclose on the property. The expense of the judicial foreclosure is several times that of the non-judicial foreclosure. Once the judicial foreclosure has been concluded, the right of the unit owner to redeem the property still must be dealt with. And, if you will review the right of redemption under Title 34, you will notice that the unit owner has up to one year to redeem property after a judicial foreclosure has occurred. As you can see, the

The Honorable Pat Pourchot  
Re: Senate Bill 470  
Continued page 5

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difference between a judicial and a non-judicial foreclosure is substantial. The benefits to the association in context of foreclosure have been basically removed and the association's implied threat to the lender under the "super lien" provision has been eliminated. The implied threat to the lender under the "super lien" that I have referenced is that if the lender does not pay the monies that the association is entitled to, the cost of curing the non-judicial foreclosure will be increased by approximately \$300 immediately upon the filing of the notice of default as outlined above. Certainly an amount large enough to catch the lender's attention. There would be immediate pressure on the lender to comply. This "threat" has been removed. The association has no real ability to foreclose on the property at this point in time. I can foresee only a few associations who would be inclined to attempt to foreclose in a judicial context. What that leaves the association with then, is a lawsuit in small claims court as its sole remedy, thus defeating one of the major benefits the new act gave the associations, the "super lien". I would note that both the lenders through AMBA, with Kay Murphy and Lucille Steitz testifying, and the title people, through William McKillop of Land Title, were vigorously supportive of this amendment as set forth in Section 7(j)(1). On behalf of the community associations, I testified that it was going to be difficult for the associations to collect their money.

Section 8 is a much needed addition to deal with the way that real estate in Alaska has been developed. There truly are associations that no longer can function. It is going to be necessary that there be a vehicle available to allow the unit owner to sign off on a statement explaining what the association has done and explaining why it is not functioning so that a purchaser will not be misled as to the scope of the association's activities. I have noticed, however, in preparing some of these resale certificates, for associations who have "limited purpose", that when I fully explain all the responsibilities the association is truly responsible for, that the sellers, buyers and agents are enlightened to some of the responsibilities the association should have been paying for all along. I believe this is a benefit and certainly will remove a lot of the concerns that the real estate industry has expressed.

I had not seen a draft version of SB 470 when I talked to your staff member. I have had an opportunity to have input into the

The Honorable Pat Bourchot  
Re: Senate Bill 400  
Continued page 6

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drafting of this bill but, I believe, I was the sole consumer representative in those meetings. The realtors, lenders and title insurance personnel have their own agendas for these amendments. I believe that taking the foreclosure out of the hands of the associations is to also remove the "super lien" as a meaningful threat and, therefore, the benefit that it was to have been. The remainder of the amendments are necessary.

If I may be of further assistance, please contact me.

Sincerely yours,

LAW OFFICES OF WILLIAM L. McNALL

By: William L. McNall  
William L. McNall

WLM/sd



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith  
Signature of Camera Operator

7/25/89  
Date

SCR

Z

COMMITTEE REPORT

HOUSE

5/11

*Julian*

(7)

5/7/85

FURTHER: JUDICIARY

Date: \_\_\_\_\_

The Committee on JUDICIARY has had CS3CP 3 (HSS)  
Relating to background checks on school district employees and contract workers who come into contact with children.

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*William L. Taylor*  
\_\_\_\_\_  
*John L. Taylor*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*John L. Taylor*  
\_\_\_\_\_  
\_\_\_\_\_  
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*William L. Taylor*  
\_\_\_\_\_  
CHAIRMAN

Offered: 4/8/85  
Referred: Judiciary

Original sponsor: DeVries

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE CONCURRENT RESOLUTION NO. 3 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 Relating to background checks on school  
6 district employees and contract workers  
7 who come into contact with children.

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

9 WHEREAS sexual abuse of minors is a serious and widespread problem;  
10 and

11 WHEREAS existing law permits employers of individuals having contact  
12 with children to obtain certain information on convictions of these indi-  
13 viduals relating to sex crimes (AS 12.62.035);

14 BE IT RESOLVED by the Alaska State Legislature that local school  
15 districts are encouraged to implement appropriate background checks on all  
16 persons employed by or under contract with a school district who come into  
17 contact with children.

Introduced: 1/23/85  
Referred: Health, Education & Social Services  
and Judiciary

1 IN THE SENATE

BY DEVRIES

2

SENATE CONCURRENT RESOLUTION NO. 3

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

Relating to background checks on school

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district employees who come into contact

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with children.

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16

school district employees who come into contact with children.



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith  
Signature of Camera Operator

7/25/89  
Date

SCR

5

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary  
" "

3-4-85

5-11-85

1:30 pm

1:00 pm

