



# LAWS OF ALASKA

2010

**Source**

HCS CSSB 171(FIN)

**Chapter No.**

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**AN ACT**

Relating to the permanent fund dividend of an otherwise qualified individual who dies during the qualifying year, and relating to contributions from permanent fund dividends; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1



AN ACT

1 Relating to the permanent fund dividend of an otherwise qualified individual who dies during  
2 the qualifying year, and relating to contributions from permanent fund dividends; and  
3 providing for an effective date.

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5 \* **Section 1.** AS 43.23.005(h) is amended to read:

6 (h) If an individual who would otherwise have been eligible for a permanent  
7 fund dividend dies after applying for the dividend but before the dividend is paid, the  
8 department shall pay the dividend to a personal representative of the estate or to a  
9 successor claiming personal property under AS 13.16.680. If an individual who would  
10 otherwise have been eligible for a dividend and who did not apply for the dividend  
11 dies during the application period, a personal representative of the estate or a  
12 successor claiming personal property under AS 13.16.680 may apply for and receive  
13 the dividend. **If an individual who received a dividend for the year immediately**  
14 **before the qualifying year and who would otherwise have been eligible for a**  
15 **dividend dies during the qualifying year after having been a state resident for at**

1 **least 180 days immediately before the date of death, notwithstanding (a)(1) - (3)**  
2 **and (a)(6) of this section, a personal representative of the estate or a successor**  
3 **claiming personal property under AS 13.16.680 may apply for and receive the**  
4 **dividend.** Notwithstanding AS 43.23.011, **an** [THE] application for **a** [THE] dividend  
5 may be filed by the personal representative or the successor **under this subsection** at  
6 any time before the end of the application period for the next dividend year.

7 \* **Sec. 2.** AS 43.23.062(a) is amended to read:

8 (a) Notwithstanding AS 43.23.069, the Department of Revenue shall prepare  
9 the electronic Alaska permanent fund dividend application to allow an applicant who  
10 files electronically to direct that money be subtracted from the dividend payment and  
11 contributed to one or more of the educational organizations, community foundations,  
12 or charitable organizations that appear on the contribution list contained in the  
13 application. A contribution to an organization may be \$25, \$50, \$75, \$100, or more, in  
14 increments of \$50, up to the total amount of the permanent fund dividend that the  
15 applicant is entitled to receive. If the total amount of contributions elected by an  
16 applicant exceeds the amount of the permanent fund dividend that the applicant is  
17 entitled to receive, contributions shall be deducted from the dividend in the order of  
18 priority elected by the applicant on the application until the entire amount of the  
19 dividend that the applicant is entitled to receive is allocated for contribution. The  
20 electronic dividend application form must include notice that

21 [(1) CONTRIBUTION CHANGES MAY NOT BE MADE AFTER  
22 THE APPLICANT FILES THE ELECTRONIC PERMANENT FUND DIVIDEND  
23 APPLICATION; AND

24 (2)] no money contributed will be used for administrative costs  
25 incurred in implementing this section, and money from the dividend fund will not be  
26 used for that purpose.

27 \* **Sec. 3.** AS 43.23.062(b) is amended to read:

28 (b) The department shall list each campus of the University of Alaska and  
29 shall list each other educational organization, community foundation, or charitable  
30 organization eligible under (c) and (d) of this section on the contribution list. **The**  
31 **department shall maintain an electronic database for the contribution list that is**

1 accessible to the public and that permits searches by organization name,  
2 geographic location, and type [BY GEOGRAPHIC REGION IN RANDOM  
3 ORDER, AND THE ORDER SHALL BE CHANGED EACH YEAR. ON THE  
4 CONTRIBUTION LIST, ORGANIZATIONS SHALL ALSO BE GROUPED BY  
5 TYPE WITHIN EACH GEOGRAPHIC REGION]. The department shall provide a  
6 statement of the contributions made by an individual that is suitable for federal income  
7 tax purposes to each individual who elects to contribute under (a) of this section.

8 \* **Sec. 4.** AS 43.23.062(c) is amended to read:

9 (c) The department may not include a charitable organization, other than a  
10 community foundation, on the contribution list for a dividend year unless the purpose  
11 of the charitable organization is to provide services [PROGRAMS] for youth  
12 development, workforce development, arts and culture, aid and services to the elderly,  
13 low-income individuals, individuals in emergency situations, victims of crime,  
14 disabled individuals, individuals with mental illness, primary, vocational, and higher  
15 education, health and dental care, recreational facilities, child abuse and neglect,  
16 economic development, food assistance, libraries, public broadcasting, recycling of  
17 waste, animal rescue, and zoos. The department may not include on the contribution  
18 list an educational organization, community foundation, or charitable organization that  
19 is the affiliate of a group. For purposes of this subsection,

20 (1) "affiliate" means an organization or foundation that directly or  
21 indirectly through one or more intermediaries controls, is controlled by, or is under  
22 common control with, a group;

23 (2) "group" has the meaning given in AS 15.13.400(8)(B).

24 \* **Sec. 5.** AS 43.23.062(d) is amended to read:

25 (d) Except for each campus of the University of Alaska, the department may  
26 include an educational organization, community foundation, or charitable organization  
27 on the contribution list for a current dividend year only if the organization

28 (1) before March 31 [JUNE 15] of the qualifying year, files an  
29 application for inclusion on the list for that dividend year on the form required by the  
30 department;

31 (2) is exempt from taxation under 26 U.S.C. 501(c)(3) (Internal

1 Revenue Code) as an educational or a charitable organization on the date of  
2 application;

3 (3) was qualified for tax exempt status under 26 U.S.C. 501(c)(3)  
4 (Internal Revenue Code) as an educational or a charitable organization during the two  
5 calendar years that immediately precede the year the application is filed;

6 (4) **unless exempted under federal law,** has a current Internal  
7 Revenue Service Form 990 on file with the United States Department of the Treasury,  
8 Internal Revenue Service, or, if the Internal Revenue Service has granted a filing  
9 extension for the current year, has on file that form for the immediately **preceding**  
10 **[PRECEEDING]** year;

11 (5) is directed by a voluntary board of directors or local advisory  
12 board, **a majority of** whose members are residents of the state;

13 (6) **if a community foundation,** provided in the state aid **during the**  
14 **two calendar years that immediately precede the year the application is filed,** or,  
15 **if an education organization or charitable organization, provided in the state**  
16 services during the two calendar years that immediately precede the year the  
17 application is filed;

18 (7) receives at least \$100,000 or five percent of its total annual  
19 receipts, whichever is less, from contributions;

20 (8) has completed and provided to the department a financial audit  
21 with an unqualified opinion conducted by an independent certified public accountant  
22 for the fiscal year to which the Internal Revenue Service Form 990 required under (4)  
23 of this subsection applies, **or if the organization is exempted from filing Form 990,**  
24 **for the fiscal year of the organization that ended immediately before the current**  
25 **fiscal year;** this paragraph applies only to an organization with a total annual budget  
26 that exceeds \$250,000 during the fiscal year to which the **audit** [INTERNAL  
27 REVENUE SERVICE FORM 990] required under [(4) OF] this **paragraph**  
28 [SUBSECTION] applies; and

29 (9) does not make grants or contributions to an organization that is  
30 exempt from taxation under 26 U.S.C. 501(c)(4) or (6).

31 \* **Sec. 6.** AS 43.23.062(f) is amended to read:

1 (f) The department **shall charge** [MAY ESTABLISH] an application fee **of**  
2 **\$250** [NOT TO EXCEED \$50] for each educational organization, community  
3 foundation, or charitable organization that files an application under (d) of this section.  
4 The application fees shall be separately accounted for under AS 37.05.142. The annual  
5 estimated balance in the account maintained under AS 37.05.142 for application fees  
6 collected under this subsection may be appropriated for costs of administering this  
7 section.

8 \* **Sec. 7.** AS 43.23.062(i) is amended to read:

9 (i) The department may adopt regulations under AS 44.62 (Administrative  
10 Procedure Act) to carry out the provisions of this section. **Notwithstanding this**  
11 **subsection and other provisions of law, a state agency, including the department,**  
12 **may not adopt regulations or otherwise impose requirements or procedures on**  
13 **organizations to implement, interpret, make specific, or otherwise carry out the**  
14 **provisions of this section unless required by the federal government.** If an  
15 organization disagrees with an action of the department under this section and requests  
16 an administrative hearing, the hearing shall be conducted by the office of  
17 administrative hearings (AS 44.64.010).

18 \* **Sec. 8.** AS 43.23.062 is amended by adding a new subsection to read:

19 (l) A community foundation may not deposit contributions received under this  
20 section into a fund that would be included in the definition of a donor advised fund  
21 under 26 U.S.C. 4966(d)(2) (Internal Revenue Code).

22 \* **Sec. 9.** Sections 4 and 6, ch. 41, SLA 2008, are repealed.

23 \* **Sec. 10.** Sections 1 - 8 of this Act take effect January 1, 2011.