

*Statutes and Regulations*

# PERMANENT FUND DIVIDEND PROGRAM



January 1, 2011

**ALASKA**  
**DEPARTMENT OF REVENUE**  
**PERMANENT FUND DIVIDEND DIVISION**

# Permanent Fund Dividend Statutes and Regulations 2011

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For applications or for further information regarding the Permanent Fund Dividend program, you may contact the dividend office nearest you.

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**TITLE 43. REVENUE.**

**Chapter 23. Permanent Fund Dividends. continued**

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**AS 43.23.005. Eligibility.**

- (a) An individual is eligible to receive one permanent fund dividend each year in an amount to be determined under AS 43.23.025 if the individual
- (1) applies to the department;
  - (2) is a state resident on the date of application;
  - (3) was a state resident during the entire qualifying year;
  - (4) has been physically present in the state for at least 72 consecutive hours at some time during the prior two years before the current dividend year;
  - (5) is
    - (A) a citizen of the United States;
    - (B) an alien lawfully admitted for permanent residence in the United States;
    - (C) an alien with refugee status under federal law; or
    - (D) an alien that has been granted asylum under federal law;
  - (6) was, at all times during the qualifying year, physically present in the state or, of absent, was absent only as allowed in AS 43.23.008; and
  - (7) was in compliance during the qualifying year with the military selective service registration requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act), if those requirements were applicable to the individual, or has come into compliance after being notified of the lack of compliance.
- (b) *[Repealed, § 18 ch 4 SLA 1992.]*
- (c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent individual who is eligible to receive a payment under this section. Notwithstanding (a)(2) - (4) of this section, a minor is eligible for a dividend if, during the two calendar years immediately

preceding the current dividend year, the minor was born to or adopted by an individual who is eligible for a dividend for the current dividend year.

- (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is not eligible for a permanent fund dividend for a dividend year when
- (1) during the qualifying year, the individual was sentenced as a result of conviction in this state of a felony;
  - (2) during all or part of the qualifying year, the individual was incarcerated as a result of the conviction in this state of a
    - (A) felony; or
    - (B) misdemeanor if the individual has been convicted of
      - (i) a prior felony as defined in AS 11.81.900; or
      - (ii) two or more prior misdemeanors as defined in AS 11.81.900.
- (Applies to crimes after December 31, 1996)**
- (e) *[Repealed, § 64 ch 21 SLA 1991.]*
- (f) The commissioner may waive the requirement of (a)(4) of this section for an individual absent from the state
- (1) in a time of national military emergency under military orders while serving in the armed forces of the United States, or for the spouse and dependents of that individual; or
  - (2) while in the custody of the Department of Health and Social Services in accordance with a court order under AS 47.10 or AS 47.12 and placed outside of the state by the Department of Health and Social Services for purposes of medical or behavioral treatment.
- (g) For purposes of applying (d)(1) of this section, the date the court imposes a sentence or suspends the imposition of sentence shall be treated as the date of conviction. For purposes of applying (d)(2)(B) of this section, multiple convictions arising out of a single criminal episode shall be treated as a single conviction.

- (h) **(Applies to the 2011 dividend)** If an individual who would otherwise have been eligible for a permanent fund dividend dies after applying for the dividend but before the dividend is paid, the department shall pay the dividend to a personal representative of the estate or to a successor claiming personal property under AS 13.16.680. If an individual who would otherwise have been eligible for a dividend and who did not apply for the dividend dies during the application period, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend. Notwithstanding AS 43.23.011, the application for the dividend may be filed by the personal representative or the successor at any time before the end of the application period for the next dividend year.
- (h) **(Applies to the 2012 and subsequent dividends)** If an individual who would otherwise have been eligible for a permanent fund dividend dies after applying for the dividend but before the dividend is paid, the department shall pay the dividend to a personal representative of the estate or to a successor claiming personal property under AS 13.16.680. If an individual who would otherwise have been eligible for a dividend and who did not apply for the dividend dies during the application period, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend. If an individual who received a dividend for the year immediately before the qualifying year and who would otherwise have been eligible for a dividend dies during the qualifying year after having been a state resident for at least 180 days immediately before the date of death, notwithstanding (a)(1) - (3) and (a)(6) of this section, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend. Notwithstanding AS 43.23.011, an application for a dividend may be filed by the personal representative or the successor under this subsection at any time before the end of the application period for the next dividend year. (§ 1 ch 102 SLA 1982; am § 1 ch 57 SLA 1987; am § 1 ch 54 SLA 1988; am § 1 ch 159 SLA 1988; am §§ 2, 3 ch 107 SLA 1989; am § 1 ch 68 SLA 1990; am §§ 46, 62 ch 21 SLA 1991; am § 1 ch 68 SLA 1991; am §§ 4 - 8, 18 ch 4 SLA 1992; am §§ 2, 3 ch 46 SLA 1996; am §§ 2 - 4 ch 44 SLA 1998; am § 1 ch 91 SLA 1998; am § 25 ch 92 SLA 2001; am § 5 ch 89 SLA 2002; am § 5 ch 64 SLA 2005; am § 1 ch 22 SLA 2010)

**AS 43.23.008. Allowable absences.**

- (a) Subject to (b) and (c) of this section, an otherwise eligible individual who is

absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the individual was absent

- (1) receiving secondary or postsecondary education on a full-time basis;
- (2) receiving vocational, professional, or other specific education on a full-time basis for which, as determined by the Alaska Commission on Postsecondary Education, a comparable program is not reasonably available in the state;
- (3) serving on active duty as a member of the armed forces of the United States or accompanying, as that individual's spouse, minor dependent, or disabled dependent, an individual who is
  - (A) serving on active duty as a member of the armed forces of the United States; and
  - (B) eligible for a current year dividend;
- (4) serving under foreign or coastal articles of employment aboard an oceangoing vessel of the United States merchant marine;
- (5) receiving continuous medical treatment recommended by a licensed physician or convalescing as recommended by the physician that treated the illness if the treatment or convalescence is not based on a need for climatic change;
- (6) providing care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex;
- (7) providing care for the individual's terminally ill family member;
- (8) settling the estate of the individual's deceased parent, spouse, sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;
- (9) serving as a member of the United States Congress;
- (10) serving on the staff of a member from this state of the United States Congress;



- (11) serving as an employee of the state in a field office or other location;
  - (12) accompanying a minor who is absent under (5) of this subsection;
  - (13) accompanying another eligible resident who is absent for a reason permitted under (1), (2), (5) - (12), (16) or (17) of this subsection as the spouse, minor dependent, or disabled dependent of the eligible resident;
  - (14) serving as a volunteer in the federal peace corps program;
  - (15) because of training or competing as a member of the United States Olympic Team;
  - (16) participating for educational purposes in a student fellowship sponsored by the United States Department of Education or by the United States Department of State;
  - (17) for any reason consistent with the individual's intent to remain a state resident, provided the absence or cumulative absences do not exceed
    - (A) 180 days in addition to any absence or cumulative absences claimed under (3) of this subsection if the individual is not claiming an absence under (1), (2), or (4) - (16) of this subsection;
    - (B) 120 days in addition to any absence or cumulative absences claimed under (1) - (3) of this subsection if the individual is not claiming an absence under (4) - (16) of this subsection but is claiming an absence under (1) or (2) of this subsection; or
    - (C) 45 days in addition to any absence or cumulative absences claimed under (1) - (16) of this subsection if the individual is claiming an absence under (4) - (16) of this subsection.
- (b) An individual may not claim an allowable absence under (a)(1) - (16) of this section unless the individual was a resident of the state for at least six consecutive months immediately before leaving the state.
  - (c) An otherwise eligible individual who has been eligible for the immediately preceding 10 dividends despite being absent from the state for more than 180 days in each of the related 10 qualifying years is only eligible for the current

year dividend if the individual was absent 180 days or less during the qualifying year. This subsection does not apply to an absence under (a)(9) or (10) of this section or to an absence under (a)(13) of this section if the absence is to accompany an individual who is absent under (a)(9) or (10) of this section. **(Applies only to periods of absence beginning January 1, 1998, and thereafter)**

- (d) For purposes of (a)(7) of this section, “family member” means a person who is
- (1) legally related to the individual through marriage or guardianship; or
  - (2) the individual’s sibling, parent, grandparent, son, daughter, grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin. (§ 5 ch 44 SLA 1998; am § 1 ch 71 SLA 1999; am § 1 ch 69 SLA 2003; am §§ 1, 2 ch 116 SLA 2003; am §§ 20, 21 ch 42 SLA 2006; am §§ 1, 2 ch 36 SLA 2008)

**AS 43.23.011. Application period.**

- (a) An application for a permanent fund dividend shall be filed during the period that begins January 1 and ends March 31 of that dividend year.
- (b) An otherwise eligible individual may apply for a current year dividend after March 31 of that year if the individual was eligible during the application period under (a) of this section for hostile fire or imminent danger pay while serving on active duty as a member of the armed forces of the United States. The individual must apply under this subsection within 90 days after the last day the individual was eligible for hostile fire or imminent danger pay. If the individual was eligible for hostile fire or imminent danger pay on March 31 of the current dividend year, the 90-day application period extension begins on the first day after March 31 that the individual was no longer eligible for the pay.
- (c) The commissioner may permit an individual to apply for a permanent fund dividend for any year after the application deadline under (a) or (b) of this section if the individual
- (1) at any time during the application period for that dividend established in (a) or (b) of this section,
    - (A) served on active duty as a member of the armed forces of the United States; and

- (B) was eligible for hostile fire or imminent danger pay; and
- (2) demonstrates a reasonable cause for the delay in applying for that dividend. (§ 9 ch 4 SLA 1992; am § 1 ch 112 SLA 2004; am § 22 ch 42 SLA 2006)

**AS 43.23.015. Application and proof of eligibility.**

- (a) The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) for determining the eligibility of individuals for permanent fund dividends. The commissioner may require an individual to provide proof of eligibility, and the commissioner may use other information available from other state departments or agencies to determine the eligibility of an individual. The commissioner shall consider all relevant circumstances in determining the eligibility of an individual. However, the residency of an individual's spouse may not be the principal factor relied upon by the commissioner in determining the residency of the individual.
- (b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend. The application must include notice of the penalties provided for under AS 43.23.035 and contain a statement of eligibility and a certification of residency.
- (c) Except as provided in (d) of this section or as may be provided by regulations adopted by the department, an individual must personally sign the application for permanent fund dividends, including the certification of residency required under (b) of this section.
- (d) The application and certification of residency of an unemancipated individual under 18 years of age or of a disabled or an incompetent individual must be signed by the individual's parent, legal guardian, or other authorized representative. An individual may complete, sign, and file an application on behalf of a member of the armed forces of the United States who is serving on active duty outside of the United States if the individual has a power of attorney from the member of the armed forces that authorizes, in specific or general terms, the individual to file that application.
- (e) If a public agency claims a permanent fund dividend on behalf of an individual, the public agency shall hold the dividend in trust for the individual. Money held in trust under this subsection shall be invested by the commissioner in accordance with AS 37.10.070.

- (f) A minor or a disabled or an incompetent individual may not maintain a claim against the state or an officer or employee of the state based on the manner in which the parent, guardian, or authorized representative other than a public agency of the state managed or disposed of permanent fund dividends received on behalf of the minor or disabled or incompetent individual.
- (g) If an individual is aggrieved by a decision of the department determining the individual's eligibility for a permanent fund dividend or the individual's authority to claim a permanent fund dividend on behalf of another, the individual may, upon a payment of \$25 appeal fee, request the department to review its decision. Within 12 months after the administrative appeal is filed, the department shall provide the individual with a final written decision. If the individual is aggrieved by the decision of the department after all administrative proceedings, the individual may appeal that decision to the superior court in accordance with AS 44.62.560. An appeal to the court under this section does not entitle the aggrieved individual to a trial de novo. The appeal shall be based on the record of the administrative proceeding from which appeal is taken and the scope of appeal is limited to matters contained in the record of the administrative proceeding. If, as a result of an administrative proceeding or a court appeal, the individual prevails, the \$25 appeal fee shall be returned to the individual by the department.
- (h) The penalty and enforcement provisions of AS 43.23.035 apply to an individual who claims a permanent fund dividend on behalf of another.
- (i) An indigent individual may apply for a waiver of the appeal fee required under (g) of this section. The department shall prescribe and furnish a form for that purpose. The department shall grant the waiver if, during the year immediately preceding the year the form is submitted to the department, the individual was a member of a family with an income equal to or less than the federal poverty guidelines for Alaska set by the United States Department of Health and Human Services.
- (j) The application form for claiming a permanent fund dividend must include a place for the applicant to voluntarily indicate that the applicant is a veteran, the branch of service, including the Alaska Territorial Guard, and the dates of service. Notwithstanding AS 43.23.017, the department shall release information provided under this subsection to the Department of Military and Veterans' Affairs and may not otherwise release the information. The Department of Military and Veterans' Affairs may only release the information to congressionally chartered veterans service organizations in the state. The application form must contain notice that providing the information under this subsection is voluntary, that the information will be

released as provided in this subsection, and that the veterans service organizations are not required to keep it confidential. (§ 1 ch 102 SLA 1982; am § 2 ch 159 SLA 1988; am § 4 ch 107 SLA 1989; am §§ 2, 3 ch 68 SLA 1990; am § 47 ch 21 SLA 1991; am § 2 ch 68 SLA 1991; am §§ 10, 11 ch 4 SLA 1992; am §§ 1, 2 ch 18 SLA 1996; am § 1 ch 83 SLA 2005; am § 1 ch 90 SLA 2008)

**AS 43.23.016. Voter registration.**

The commissioner shall include, at the department's expense, voter registration forms prepared under AS 15.07.070(b) in the permanent fund dividend application packet. The forms must include a notice that an individual is not required to register to vote in order to be eligible to receive a permanent fund dividend. For purposes of maintaining accurate voter registration records, the commissioner shall provide the director of elections with the mailing addresses of all applicants for a permanent fund dividend. (§ 1 ch 48 SLA 1992; am § 91 ch 82 SLA 2000)

**AS 43.23.017. Applicant information confidential.**

- (a) Information on each permanent fund dividend application, except the applicant's name, is confidential. The department may only release information that is confidential under this section
- (1) to a local, state, or federal government agency;
  - (2) in compliance with a court order;
  - (3) to the individual who or agency that files an application on behalf of another;
  - (4) to a banking institution to verify the direct deposit of a permanent fund dividend or correct an error in that deposit;
  - (5) as directed to do so by the applicant; and
  - (6) to a contractor who has a contract with a person entitled to obtain the information under (1) - (5) of this section to receive, store, or manage the information on that person's behalf; a contractor receiving data under this paragraph may only use the data as directed by and for the purposes of the person entitled to obtain the information.

- (b) Notwithstanding (a) of this section, the department may release the names and addresses of permanent fund dividend applicants to a legislator of this state and to the legislators office staff for official legislative purposes. (§2 ch 181 SLA 2004; am §2 ch 92 SLA 2008)

**AS 43.23.021. Delayed payment of certain dividends.**

- (a) Notwithstanding other provisions regarding the payment of permanent fund dividends, if an individual is required to register as a sex offender or child kidnapper under AS 12.63 and has not registered or has not completed the required periodic verifications or notices required under AS 12.63, payment of the dividend for that individual shall be delayed.
- (b) If payment of a dividend is delayed, the department shall notify the individual in writing of the delayed payment status, explain the requirements of this section, and request proof of registration and compliance with the verifications and notices required under AS 12.63. The dividend may not be paid unless, within one year after the notification, the department determines that the individual has registered and is in compliance with the verifications and notices required under AS 12.63.
- (c) The permanent fund dividend of an individual for whom payment has been delayed, but that remains payable under (b) of this section, is subject to levy, execution, garnishment, attachment, or any other remedy for the collection of debt. The department shall immediately pay that dividend, or the portion of it that has been claimed by a debtor, as provided in AS 43.23.065 – 43.23.068.
- (d) If an individual for whom payment of a permanent fund dividend has been delayed but remains payable under (b) of this section dies before the dividend is paid or payable, the department shall pay the dividend to a personal representative of the individual's estate.
- (e) The department shall include notice with the dividend application form of the requirements of (a) and (b) of this section. (§ 32 ch 75 SLA 2008)

**AS 43.23.025. Amount of dividend.**

- (a) By October 1 of each year, the commissioner shall determine the value of each permanent fund dividend for that year by
  - (1) determining the total amount available for dividend payments, which equals

- (A) the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 37.13.145(b) during the current year;
  - (B) plus the unexpended and unobligated balances of prior fiscal year appropriations that lapse into the dividend fund under AS 43.23.045(d);
  - (C) less the amount necessary to pay prior year dividends from the dividend fund in the current year under AS 43.23.005(h), AS 43.23.021, and AS 43.23.055(3) and (7);
  - (D) less the amount necessary to pay dividends from the dividend fund due to eligible applicants who, as determined by the department, filed for a previous year's dividend by the filing deadline but who were not included in a previous year's dividend computation;
  - (E) less appropriations from the dividend fund during the current year, including amounts to pay costs of administering the dividend program and the hold harmless provisions of AS 43.23.075;
- (2) determining the number of individuals eligible to receive a dividend payment for the current year and the number of estates and successors eligible to receive a dividend payment for the current year under AS 43.23.005(h); and
  - (3) dividing the amount determined under (1) of this subsection by the amount determined under (2) of this subsection.
- (b) *[Repealed, § 5 ch 68 SLA 1991.]* (§ 1 ch 102 SLA 1982; am § 1 ch 55 SLA 1983; am § 2 ch 43 SLA 1984; am § 2 ch 57 SLA 1987; am § 2 ch 54 SLA 1988; am § 4 ch 68 SLA 1990; am § 1 ch 198 SLA 1990; am § 5 ch 68 SLA 1991; am § 27 ch 134 SLA 1992; am § 2 ch 91 SLA 1998; am § 33 ch 75 SLA 2008)

**AS 43.23.028. Public notice.**

- (a) By October 1 of each year, the commissioner shall give public notice of the value of each permanent fund dividend for that year and notice of the information required to be disclosed under (3) of this subsection. In addition, the stub attached to each individual dividend disbursement advice must

- (1) disclose the amount of each dividend attributable to income earned by the permanent fund from deposits to that fund required under art. IX, sec. 15, Constitution of the State of Alaska;
- (2) disclose the amount of each dividend attributable to income earned by the permanent fund from appropriations to that fund and from amounts added to that fund to offset the effects of inflation;
- (3) disclose the amount by which each dividend has been reduced due to each appropriation from the dividend fund, including amounts to pay the costs of administering the dividend program and the hold harmless provisions of AS 43.23.075;
- (4) include a statement that an individual is not eligible for a dividend when
  - (A) during the qualifying year, the individual was convicted of a felony;
  - (B) during all or part of the qualifying year, the individual was incarcerated as a result of the conviction of a
    - (i) felony; or
    - (ii) misdemeanor if the individual has been convicted of a prior felony or two or more prior misdemeanors;
- (5) include a statement that the legislative purpose for making individuals listed under (4) of this subsection ineligible is to
  - (A) obtain reimbursement for some of the costs imposed on the state criminal justice system related to incarceration or probation of those individuals;
  - (B) provide funds for services for and payments to crime victims and for grants for the operation of domestic violence and sexual assault programs; or
- (6) disclose the total amount that would have been paid during the previous fiscal year to individuals who were ineligible to receive dividends under AS 43.23.005(d) if they had been eligible;



- (7) disclose the total amount appropriated for the current fiscal year under (b) of this section for each of the funds and agencies listed in (b) of this section.
- (b) To the extent that amounts appropriated for a fiscal year do not exceed the total amount that would have been paid during the previous fiscal year to individuals who were ineligible to receive dividends under AS 43.23.005(d) or under AS 43.23.021(b) if they had been eligible, the notice requirements of (a)(3) of this section do not apply to appropriations from the dividend fund to
- (1) the crime victim compensation fund established under AS 18.67.162 for payments to crime victims;
  - (2) the council on domestic violence and sexual assault established under AS 18.66.010 for grants for the operation of domestic violence and sexual assault programs;
  - (3) the Department of Corrections for incarceration and probation programs;
  - (4) the office of victims' rights;
  - (5) nonprofit victims' rights organizations for grants for services to crime victims; or
  - (6) the Department of Revenue for grants to minor children of incarcerated individuals under a grant program established by regulations of the Department of Revenue under AS 44.62 (Administrative Procedure Act). (§ 2 ch 198 SLA 1990; am § 3 ch 68 SLA 1991; am § 1 ch 82 SLA 1993; am § 4 ch 46 SLA 1996; am § 6 ch 44 SLA 1998; am § 26 ch 92 SLA 2001; am § 22 ch 175 SLA 2004; am § 34 ch 75 SLA 2008; am § 1 ch 79 SLA 2008)

**AS 43.23.033. Subpoena Power.**

- (a) The commissioner or the commissioner's designee at the director level may issue subpoenas to compel the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with an investigation under or the administration of this chapter.

- (b) In case of refusal to obey a subpoena issued to any person under (a) of this section, the superior court may, upon application by the department, issue an order requiring the person to appear before the department to produce evidence if ordered. Failure to obey the order of the court is punishable as contempt.
- (c) A person who, without just cause, fails or refuses to produce books, papers, correspondence, memoranda, and other records, if it is in the person's power to do so, in obedience to a subpoena of the department or an authorized representative of it, upon conviction, is punishable by a fine of not more than \$200, or by imprisonment for not more than 60 days, or by both. Each day the failure or refusal continues is a separate offense. (§ 1 ch 97 SLA 2004)

**AS 43.23.035. Penalties and enforcement.**

- (a) In addition to any criminal penalties imposed by state law, if an individual is convicted of a crime in connection with a false statement made in a certification required under AS 43.23.015, and the conviction is not reversed, that individual forfeits all permanent fund dividends paid and is not eligible for a future permanent fund dividend.
- (b) If the commissioner determines that a permanent fund dividend should not have been claimed by or paid to an individual, the commissioner may use all collection procedures or remedies available for collection of taxes under this title to recover the payment of a permanent fund dividend that was improperly made. A notice of an improperly paid dividend must be sent to the individual within
  - (1) three years after the improper payment is sent; or
  - (2) six years after the improper payment is sent if the commissioner determines that the individual exercised gross negligence or recklessly disregarded a material fact in connection with a false statement made in an application.
- (c) In addition to any criminal penalties imposed by state law, if the department finds that an individual, in claiming a permanent fund dividend, or an individual, in certifying another person's eligibility, willfully misrepresents, exercises gross negligence with respect to, or recklessly disregards a material fact pertaining to, eligibility, the department may issue an order against the individual for the

- (1) forfeiture of the dividend;
  - (2) imposition of a civil fine of up to \$3,000; and
  - (3) loss of eligibility to receive the next five dividends following the forfeited dividend.
- (d) If notice is not sent within the time required under (b) of this section, administrative or judicial proceedings may not be commenced for recovery of an improperly paid dividend. The time limitations of (b) of this section do not apply if a dividend is forfeited under (a) of this section or if it is more probable than not that an individual has committed a crime in connection with a false statement made in an application.
- (e) The provisions of AS 43.23.015(g) and (i) apply to a request for review of, and to appeal of, a decision under (c) of this section by an individual aggrieved by the decision. When all appeals have been exhausted under this chapter or the time when all of the appeals that could have been taken has expired, the order issued imposing a civil fine, forfeiture, or loss of eligibility becomes final and enforceable in the same manner as a judgment of the court. (§ 1 ch 102 SLA 1982; am § 3 ch 159 SLA 1988; am §§ 12, 13 ch 4 SLA 1992; am §§ 23, 24 ch 42 SLA 2006)

**AS 43.23.045. Dividend fund.**

- (a) The dividend fund is established as a separate fund in the state treasury. The dividend fund shall be administered by the commissioner and shall be invested by the commissioner in the same manner as provided in AS 37.10.070.
- (b) *[Repealed, § 29 ch 134 SLA 1992.]*
- (c) *[Repealed, § 24 ch 99 SLA 1985.]*
- (d) Unless specified otherwise in an appropriation act, the unexpended and unobligated balance of an appropriation to implement this chapter lapses into the dividend fund on June 30 of the fiscal year for which the appropriation was made and shall be used in determining the amount of and paying the subsequent year's dividend as provided in AS 43.23.025(a)(1)(B).
- (e) *[Repealed, § 29 134 SLA 1992.]* (§ 1 ch 102 SLA 1982; am § 24 ch 99 SLA 1985; am § 3 ch 57 SLA 1987; am § 1 ch 38 SLA 1989; am §§ 2, 3 ch 18 SLA 1991; am § 29 ch 134 SLA 1992)

**AS 43.23.055. Duties of the department.**

The department shall

- (1) annually pay permanent fund dividends from the dividend fund;
- (2) subject to AS 43.23.011 and paragraph (8) of this section, adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for claiming a permanent fund dividend; the department shall determine the number of eligible applicants by October 1 of the year for which the dividend is declared and pay the dividends by December 31 of that year;
- (3) adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual;
- (4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends;
- (5) use a list of individuals ineligible for a dividend under AS 43.23.005(d) provided annually by the Department of Corrections and the Department of Public Safety to determine the number and identity of those individuals;
- (6) adopt regulations that are necessary to implement AS 43.23.005(d);
- (7) adopt regulations that establish procedures for the parent, guardian, or other authorized representative of a disabled individual to apply for prior year permanent fund dividends not received by the disabled individual because no application was submitted on behalf of the individual;
- (8) adopt regulations that establish procedures for an individual to apply to have a dividend disbursement under AS 37.25.050(a)(2) reissued if it is not collected within two years after the date of its issuance; however, the department may not establish a time limit within which an application to have a disbursement reissued must be filed;

- (9) provide any information, upon request, contained in permanent fund dividend records to the child support services agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law; if the information is contained in an electronic data base, the department shall provide the requesting agency with either
- (A) access to the data base; or
  - (B) a copy of the information in the data base and a statement certifying its contents;
- (10) establish a fraud investigation unit for the purpose of assisting the
- (A) Department of Law in the prosecution of individuals who apply for or obtain a permanent fund dividend in violation of a provision in AS 11, by detecting and investigating those crimes; and
  - (B) commissioner to detect and investigate the claiming or paying of permanent fund dividends that should not have been claimed by or paid to an individual and to impose the penalties and enforcement provisions under AS 43.23.035. (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983; am § 3 ch 43 SLA 1984; am § 3 ch 54 SLA 1988; am § 5 ch 68 SLA 1990; am § 14 ch 4 SLA 1992; am § 1 ch 64 SLA 1993; am § 5 ch 46 SLA 1996; am § 144 ch 87 SLA 1997; am § 23 ch 175 SLA 2004; am § 25 ch 42 SLA 2006)

**AS 43.23.062. Contributions from dividends.**

- (a) **(Effective January 1, 2011)** Notwithstanding AS 43.23.069, the Department of Revenue shall prepare the electronic Alaska permanent fund dividend application to allow an applicant who files electronically to direct that money be subtracted from the dividend payment and contributed to one or more of the educational organizations, community foundations, or charitable organizations that appear on the contribution list contained in the application. A contribution to an organization may be \$25, \$50, \$75, \$100, or more, in increments of \$50, up to the total amount of the permanent fund dividend that the applicant is entitled to receive. If the total amount of contributions elected by an applicant exceeds the amount of the permanent fund dividend

that the applicant is entitled to receive, contributions shall be deducted from the dividend in the order of priority elected by the applicant on the application until the entire amount of the dividend that the applicant is entitled to receive is allocated for contribution. The electronic dividend application form must include notice that no money contributed will be used for administrative costs incurred in implementing this section, and money from the dividend fund will not be used for that purpose.

- (b) **(Effective January 1, 2011)** The department shall list each campus of the University of Alaska and shall list each other educational organization, community foundation, or charitable organization eligible under (c) and (d) of this section on the contribution list. The department shall maintain an electronic database for the contribution list that is accessible to the public and that permits searches by organization name, geographic location, and type. The department shall provide a statement of the contributions made by an individual that is suitable for federal income tax purposes to each individual who elects to contribute under of this section.
- (c) **(Effective January 1, 2011)** The department may not include a charitable organization, other than a community foundation, on the contribution list for a dividend year unless the purpose of the charitable organization is to provide services for youth development, workforce development, arts and culture, aid and services to the elderly, low-income individuals, individuals in emergency situations, victims of crime, disabled individuals, individuals with mental illness, primary, vocational, and higher education, health and dental care, recreational facilities, child abuse and neglect, economic development, food assistance, libraries, public broadcasting, recycling of waste, animal rescue, and zoos. The department may not include on the contribution list an educational organization, community foundation, or charitable organization that is the affiliate of a group. For purposes of this subsection,
- (1) “affiliate” means an organization or foundation that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, a group;
- (2) “group” has the meaning given in AS 15.13.400(8)(B).
- (d) **(Effective January 1, 2011)** Except for each campus of the University of Alaska, the department may include an educational organization, community foundation, or charitable organization on the contribution list for a current dividend year only if the organization

- (1) before March 31 of the qualifying year, files an application for inclusion on the list for that dividend year on the form required by the department;
- (2) is exempt from taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code) as an educational or a charitable organization on the date of application;
- (3) was qualified for tax exempt status under 26 U.S.C. 501(c)(3) (Internal Revenue Code) as an educational or a charitable organization during the two calendar years that immediately precede the year the application is filed;
- (4) unless exempted under federal law, has a current Internal Revenue Service Form 990 on file with the United States Department of the Treasury, Internal Revenue Service, or, if the Internal Revenue Service has granted a filing extension for the current year, has on file that form for the immediately preceding year;
- (5) is directed by a voluntary board of directors or local advisory board, a majority of whose members are residents of the state;
- (6) if a community foundation, provided in the state aid during the two calendar years that immediately precede the year the application is filed, or, if an education organization or charitable organization, provided in the state services during the two calendar years that immediately precede the year the application is filed;
- (7) receives at least \$100,000 or five percent of its total annual receipts, whichever is less, from contributions;
- (8) has completed and provided to the department a financial audit with an unqualified opinion conducted by an independent certified public accountant for the fiscal year to which the Internal Revenue Service Form 990 required under (4) of this subsection applies; or if the organization is exempted from filing Form 990, for the fiscal year of the organization that ended immediately before the current fiscal year; this paragraph applies only to an organization with a total annual budget that exceeds \$250,000 during the fiscal year to which the audit required under this paragraph applies; and
- (9) does not make grants or contributions to an organization that is exempt from taxation under 26 U.S.C. 501(c)(4) or (6).

- (e) Unless an appropriation specifically directs that the money be used for costs incurred in implementing this section, the department may not use money from the dividend fund for administrative costs incurred in implementing this section, even if it has been appropriated for costs of administering the dividend program. The department may not use money contributed under (a) of this section for administrative costs incurred in implementing this section. Contributions shall be distributed to each organization as soon as practicable.
- (f) **(Effective January 1, 2011)** The department shall charge an application fee of \$250 for each educational organization, community foundation, or charitable organization that files an application under (d) of this section. The application fees shall be separately accounted for under AS 37.05.142. The annual estimated balance in the account maintained under AS 37.05.142 for application fees collected under this subsection may be appropriated for costs of administering this section.
- (g) The department may use an agent or enter into a contract for the implementation and operation of the contribution program under this section. Before executing a contract with a corporation or other organization, the organization must provide a copy of its policies and procedures to the department. A contract entered into under this subsection is exempt from AS 36.30 (State Procurement Code).
- (h) A public agency that claims a dividend on behalf of an individual under AS 43.23.015(e) may not elect to make contributions from the dividend under (a) of this section.
- (i) **(Effective January 1, 2011)** The department may adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the provisions of this section. Notwithstanding this subsection and other provisions of law, a state agency, including the department, may not adopt regulations or otherwise impose requirements or procedures on organizations to implement, interpret, make specific, or otherwise carry out the provisions of this section unless required by the federal government. If an organization disagrees with an action of the department under this section and requests an administrative hearing, the hearing shall be conducted by the office of administrative hearings (AS 44.64.010).
- (j) By January 20 of each year, the department shall prepare a report identifying the organizations on the contribution list for the immediately preceding year, together with the amount of contributions made to each of the organizations, and shall notify the legislature that the report is available.



- (k) **(Effective January 1, 2011)** A community foundation may not deposit contributions received under this section into a fund that would be included in the definition of a donor advised fund under 26 U.S.C. 4966(d)(2) (Internal Revenue Code).
- (l) In this section, “community foundation” means a nonprofit, autonomous, philanthropic institution that is organized and operated primarily as a permanent collection of endowed funds for the long-term benefit of a defined geographic area within one or more municipalities, that has a long-term goal of increasing its permanent unrestricted charitable endowment to benefit the area served, that primarily provides benefits by making grants and may also provide other forms of charitable services, that makes grants that are not limited to providing one type of benefit or to serving one population segment, and that makes grants to multiple grantees. (§ 1 ch 41 SLA 2008; am §§ 2 – 8 ch 22 SLA 2010)

**AS 43.23.065. Exemption of and levy on permanent fund dividends.**

- (a) Except as provided in (b) of this section, 20 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. No other exemption applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not been delivered to the debtor may be served on the commissioner by
- (1) certified mail, return receipt requested; or
  - (2) a civilian process server licensed by the commissioner of public safety using electronic execution procedures, as provided under regulations adopted by the department.
- (b) 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 25.27.140 - 25.27.220;
  - (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100, or AS 47.12.120(b)(4);

- (3) claims on defaulted education loans under AS 43.23.067;
  - (4) court ordered fines;
  - (5) writs of execution under AS 09.35 of a judgment that is entered
    - (A) against a minor in a civil action to recover damages and court costs;
    - (B) under AS 09.65.255 against the parent, parents, or legal guardian of an unemancipated minor;
  - (6) a debt owed by an eligible individual to an agency of the state, including the University of Alaska, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;
  - (7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2).
- (c) Claims listed in (b) of this section have priority in the order listed over other claims on a permanent fund dividend whether payments are sought through legal actions for the collection of debts or through assignments from the debtor.
- (d) An assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend for a year may not be accepted by the department before April 1 of that same year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a permanent fund dividend. Upon receipt of a writ of execution under (a) of this section or another court order, the commissioner shall deliver to the court that portion of the dividend executed upon along with the case name and number. At the time payment is made to the court, the department shall send to the individual at the address provided in the individual's dividend application and to the court that issued the writ or order a notice that contains
- (1) notification that all or part of the individual's dividend has been seized under a writ of execution or court order;
  - (2) the name and address of the court that issued the writ or order;
  - (3) the case number for which the writ or order was issued;

- (4) the amount seized under the writ or order; and
- (5) notification that the individual has 30 days from the date the notice is mailed in which to file with the court an objection to the seizure if a mistake has been made. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 1 ch 57 SLA 1985; am § 67 ch 138 SLA 1986; am § 3 ch 26 SLA 1989; am § 3 ch 198 SLA 1990; am §§ 3, 4 ch 52 SLA 1992; am § 5 ch 113 SLA 1994; am § 3 ch 34 SLA 1995; am § 9 ch 59 SLA 1996; am § 63 ch 64 SLA 1996; am § 1 ch 89 SLA 1998; am § 92 ch 21 SLA 2000; am § 2 ch 43 SLA 2004; am §§ 2, 3 ch 41 SLA 2008; am §§ 2, 3 ch 79 SLA 2008)

**AS 43.23.066. Claims on reimbursement for court-ordered treatment.**

- (a) AS 09.38 does not apply to permanent fund dividends taken under AS 47.12.155(c). Notwithstanding AS 09.35, execution on a dividend claimed under AS 47.12.155(c) is accomplished by delivering a certified claim to the department containing the following information:
  - (1) the name and social security number of the individual whose dividend is being claimed;
  - (2) the amount the individual owes on the reimbursement claim; and
  - (3) a statement that
    - (A) the Department of Health and Social Services has notified the individual that future permanent fund dividends of the individual will be taken to satisfy the reimbursement claim;
    - (B) the individual was notified of the right to request a hearing and allowed 30 days after the date of the notice described in (A) of this paragraph to request the Department of Health and Social Services to hold a hearing on the reimbursement claim;
    - (C) the reimbursement claim has not been contested, or, if contested, that the issue has been resolved in favor of the Department of Health and Social Services; and
    - (D) if the reimbursement claim has been contested and resolved in favor of the Department of Health and Social Services, no

appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the Department of Health and Social Services.

- (b) The Department of Health and Social Services shall notify the individual if a dividend is claimed under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:
- (1) the amount of the reimbursement claim;
  - (2) notice that the permanent fund dividend, or that portion of the permanent fund dividend that does not exceed the amount of the reimbursement claim, shall be paid to the Department of Health and Social Services; and
  - (3) notification that the individual has a right to request a hearing and has 30 days after the date the notice is mailed in which to file with the Department of Health and Social Services an objection to the dividend claim if a mistake has been made.
- (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b)(3) of this section. (§ 1 ch 144 SLA 1996)

**AS 43.23.067. Claims of defaulted education loans.**

- (a) AS 09.38 does not apply to a permanent fund dividend taken under AS 14.43.145. Notwithstanding AS 09.35, the Alaska Commission on Postsecondary Education may take a permanent fund dividend under AS 14.43.145 by delivering a claim to the department certifying the following information:
- (1) the name and social security number of the individual whose dividend is being claimed;
  - (2) the amount the individual owes on a loan awarded under AS 14.43; and
  - (3) a statement that the loan is in default under AS 14.43.145, or, if the individual has requested review of the status of the loan under AS 14.43.145(c), that a final determination has been made that the loan is in default.

- (b) The Alaska Commission on Postsecondary Education shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:
- (1) the amount of the claim;
  - (2) notice that the amount of the permanent fund dividend up to the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education to be credited against the individual's loan balance; and
  - (3) the individual's right to a hearing under (c) of this section.
- (c) Within 30 days after the date of the notice under (b) of this section, the individual may request a hearing. AS 44.62.330 - 44.62.630 apply to a hearing under this section. At the hearing, the borrower has the burden to show that
- (1) the commission has not sent a notice of default in compliance with AS 14.43.145(b);
  - (2) the notice of default has been rescinded after review under AS 14.43.145 (c); or
  - (3) the amount owed by the borrower is less than the amount claimed from the permanent fund dividend.
- (d) If the amount owed by the borrower is determined under (c) of this section to be some amount greater than \$0, but less than the amount claimed, the commission may amend its claim to the amount determined to be owing. (§ 18 ch 92 SLA 1987; am §§ 5, 6 ch 52 SLA 1992; am § 17 ch 54 SLA 1997)

**AS 43.23.068. Claims on defaulted public assistance overpayment.**

- (a) AS 09.38 does not apply to permanent fund dividends taken under AS 47.05.080(b). Notwithstanding AS 09.35, execution on a dividend claimed under AS 47.05.080(b) is accomplished by delivering a certified claim to the department containing the following information:
- (1) the name and social security number of the individual whose dividend is being claimed;

- (2) the amount the individual owes on the overpayment claim; and
  - (3) a statement that
    - (A) the Department of Health and Social Services has notified the individual that future permanent fund dividends of the individual will be taken to satisfy the overpayment claim;
    - (B) the individual was notified of the right to request a hearing and allowed 30 days from the date of the notice under (A) of this paragraph to request the Department of Health and Social Services to hold a hearing on the overpayment claim;
    - (C) the overpayment claim has not been contested, or, if contested, that the issue has been resolved in favor of the Department of Health and Social Services; and
    - (D) if the overpayment claim has been contested and resolved in favor of the Department of Health and Social Services, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the Department of Health and Social Services.
- (b) The Department of Health and Social Services shall notify the individual if a dividend is claimed under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:
- (1) the amount of the overpayment claim;
  - (2) notice that the amount of the permanent fund dividend that does not exceed the amount of the overpayment claim shall be paid to the Department of Health and Social Services; and
  - (3) notification that the individual has a right to request a hearing and has 30 days from the date the notice is mailed in which to file with the Department of Health and Social Services an objection to the dividend claim if a mistake has been made.
- (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b)(3) of this section. (§ 1 ch 35 SLA 1995)

**AS 43.23.069. Assignments.**

- (a) Except as provided in (b) of this section, a person eligible to receive a permanent fund dividend may not assign the right to the dividend. An attempted assignment of the right to receive a permanent fund dividend is against public policy and is void.
- (b) A person may assign the right to receive a permanent fund dividend to a federal, state, or municipal government agency or to a court.
- (c) For purposes of this section, "state agency" includes a regional housing authority created under AS 18.55.996. (§ 15 ch 4 SLA 1992; am § 17 ch 4 SLA 1992)

**AS 43.23.071. Fees for processing claims and assignments.**

The department shall by regulation adopted under AS 44.62 (Administrative Procedure Act) establish fees for processing claims on dividends received by the department under AS 43.23.065, 43.23.067, or 43.23.072 and for processing assignments of dividends received by the department under AS 43.23.069(b). The fees shall cover the administrative expenses of the department associated with the claims and assignments. Fees shall be deducted from the amount of the dividend remaining after payment of the portion claimed or assigned, or, if the entire dividend is claimed or assigned, the fees shall be deducted before the dividend is paid to the creditor or assignee. (§ 1 ch 11 SLA 1994; am § 1 ch 64 SLA 2000)

**AS 43.23.072. Claims for amounts owed under the Alaska Employment Security Act.**

- (a) AS 09.38 does not apply to permanent fund dividends taken by the Department of Labor and Workforce Development for a claim for payment of money owed under AS 23.20 (Alaska Employment Security Act). Notwithstanding AS 09.35, execution on a dividend claimed under this section is accomplished by delivering a certified claim to the Department of Revenue containing the following information:
  - (1) the name and social security number of the individual whose dividend is being claimed; if the Department of Labor and Workforce Development does not have access to the individual's social security number for this purpose, the department may supply other identification information authorized under regulations to make a claim under AS 43.23.065;

- (2) the amount the individual owes on the claim under AS 23.20;
  - (3) a statement that
    - (A) the Department of Labor and Workforce Development has notified the individual that future permanent fund dividends of the individual will be taken to satisfy the claim under AS 23.20;
    - (B) the individual was notified of the right to request a hearing under AS 23.20 and the Department of Labor and Workforce Development has allowed the individual at least 30 days after the date of the notice described in (A) of this paragraph to request a hearing on the claim;
    - (C) the claim under AS 23.20 has not been contested, or, if contested, the issue has been resolved in favor of the Department of Labor and Workforce Development; and
    - (D) if the claim under AS 23.20 has been contested and resolved in favor of the Department of Labor and Workforce Development, an appeal is not pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the department.
- (b) The Department of Labor and Workforce Development shall notify the individual if a dividend is claimed under (a) of this section. The notice shall be sent to the mailing address provided in the individual's permanent fund dividend application and must provide the following information:
- (1) the amount of the claim under AS 23.20;
  - (2) notice that the permanent fund dividend, or that portion of the permanent fund dividend that does not exceed the amount of the claim under AS 23.20, shall be paid to the Department of Labor and Workforce Development in accordance with priorities established in state law;
  - (3) notice that the individual has a right to request a hearing and has a specific time after the date that the notice is mailed in which to file with the Department of Labor and Workforce Development an objection to paying the claim from the individual's permanent fund dividend.



- (c) Except as provided in (d) of this section, AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b) of this section. The hearing
  - (1) is limited to issues of identity of the individual and whether an amount is still owing in the claim under AS 23.20; and
  - (2) may be conducted telephonically or in writing.
- (d) If the Department of Labor and Workforce Development has a notification or hearing procedure established in statute or regulation, the department may instead use that notification and hearing procedure so long as
  - (1) the procedure provides at least the minimum time for notice specified in (a)(3)(B) of this section for the individual to request a hearing;
  - (2) the notice includes the statements required by (b) of this section; and
  - (3) the hearing is limited to the issues specified in (c)(1) of this section.
- (e) The Department of Labor and Workforce Development may adopt regulations to implement this section under AS 44.62 (Administrative Procedure Act).
- (f) In a claim for payment under this section, the Department of Labor and Workforce Development may include only fines, penalties, overpayments, attorney fees, costs, and other amounts that
  - (1) are owed the department under other provisions of state law under which the claim under AS 23.20 is being made; and
  - (2) have been established by court judgment or administrative order. (§ 2 ch 64 SLA 2000)

**43.23.073. Claims of the University of Alaska.**

- (a) AS 09.38 does not apply to a permanent fund dividend taken under AS 14.40.251. Notwithstanding AS 09.35, the University of Alaska may take a permanent fund dividend under AS 14.40.251 by delivering a claim to the department certifying the following information:
  - (1) the name and social security number of the individual whose dividend is being claimed;
  - (2) the amount the individual owes the university; and

- (3) a statement that
  - (A) the amount claimed is in default under AS 14.40.251;
  - (B) the university has notified the individual that future permanent fund dividends will be taken to satisfy the claim;
  - (C) the individual was notified of the right to request a hearing and allowed 30 days after the date of the notice described in (B) of this paragraph to request the university to hold a hearing on the claim;
  - (D) the claim has not been contested or, if contested, the issue has been resolved in favor of the university; and
  - (E) if the claim has been contested and resolved in favor of the university, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the university.
- (b) The University of Alaska shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:
  - (1) the amount of the claim;
  - (2) notice that the amount of the permanent fund dividend up to the amount of the claim shall be paid to the university to be credited against the individual's default balance; and
  - (3) notice of the individual's right to a hearing under (c) of this section.
- (c) Within 30 days after the date of the notice under (b) of this section, the individual may request a hearing. AS 44.62.330 - 44.62.630 apply to a hearing under this subsection. At the hearing, the individual has the burden to show that
  - (1) the university has not sent a notice of default in compliance with AS 14.40.251(b);
  - (2) the notice of default has been rescinded after review under AS 14.40.251(c); or
  - (3) the amount owed by the individual is less than the amount claimed from the permanent fund dividend.

- (d) If the amount owed is determined under (c) of this section to be some amount greater than \$0, but less than the amount claimed, the University of Alaska may amend its claim to the amount determined to be owing. (§3 ch 43 SLA 2004)

**AS 43.23.075. Eligibility for public assistance.**

- (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 receiving a permanent fund dividend.
- (b) An individual who is denied medical assistance under 42 U.S.C. 1396 - 1396p (Social Security Act, Title XIX) solely because of the 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 AS 47.25.120- 47.25.300 (general relief assistance program). 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 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 AS 47.25.120 - 47.25.300 (general relief assistance program). 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. (§ 1 ch 102 SLA 1982)

**AS 43.23.085. Eligibility for state programs.**

A program administered by the state or any of its instrumentalities or municipalities, the eligibility for which is based on financial need, may not consider

a permanent fund dividend as income or resources unless required to do so by federal law or regulation. (§ 1 ch 102 SLA 1982)

**AS 43.23.095. Definitions.**

In this chapter,

- (1) “Alaska permanent fund” means the fund established by art. IX, § 15 of the state constitution;
- (2) “disabled” means physically or mentally unable to complete and sign an application due to a serious emotional disturbance, visual, orthopedic, or other health impairment, or developmental disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism or other cause; "disabled" does not mean "incompetent";
- (3) “dividend fund” means the fund established by AS 43.23.045;
- (4) “individual” means a natural person;
- (5) “permanent fund dividend” means a right to receive a payment from the dividend fund;
- (5) “qualifying year” means the year immediately preceding January 1 of the current dividend year;
- (7) “state resident” means an individual who is physically present in the state with the intent to remain indefinitely in the state under the requirements of AS 01.10.055 or, if the individual is not physically present in the state, intends to return to the state and remain indefinitely in the state under the requirements of AS 01.10.055;
- (8) “year” means a calendar year. (§ 1 ch 102 SLA 1982; am § 3 ch 55 SLA 1983; am § 6 ch 68 SLA 1990; am § 38 ch 168 SLA 1990; am § 16 ch 4 SLA 1992; am § 2 ch 73 SLA 1996; am §§ 7, 8 ch 44 SLA 1998)

**Title 1. General Provisions.**  
**Chapter 10. Laws and Statutes.**

**AS 01.10.055. Residency.**

- (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.
- (b) A person demonstrates the intent required under (a) of this section
  - (1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and
  - (2) by providing other proof of intent as may be required by law or regulation, which may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.
- (c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory, or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state. (§ 1 ch 67 SLA 1983)

**Title 11. Criminal Law**  
**Chapter 56. Offenses Against Public Administration**

**AS 11.56.200 Perjury.**

- (a) A person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true.
- (b) In a prosecution under this section, it is not a defense that
  - (1) the statement was inadmissible under the rules of evidence; or
  - (2) the oath of affirmation was taken or administered in an irregular manner.
- (c) Perjury is a class B felony. (§ 6 ch 166 SLA 1978)

**AS 11.56.205. Unsworn falsification in the first degree.**

- (a) A person commits the crime of unsworn falsification in the first degree if the person violates AS 11.56.210(a)(1) and the application is an application for a permanent fund dividend.
- (b) In this section,
  - (1) “application for a permanent fund dividend” includes a written or electronic application and any other documentation submitted to support an application for a permanent fund dividend;
  - (2) “permanent fund dividend” has the meaning given in AS 43.23.095.
- (c) Unsworn falsification in the first degree is a class C felony. (§ 7 ch 42 SLA 2006)

**AS 11.56.210. Unsworn falsification in the second degree.**

- (a) A person commits the crime of unsworn falsification in the second degree if, with the intent to mislead a public servant in the performance of a duty, the person submits a false written or recorded statement that the person does not believe to be true
  - (1) in an application for a benefit; or

- (2) on a form bearing notice, authorized by law, that false statements made in it are punishable.
- (b) Unsworn falsification in the second degree is a class A misdemeanor. (§ 6 ch 166 SLA 1978; am § 8 ch 42 SLA 2006)

**AS 11.56.800 False information or report.**

- (a) A person commits the crime of false information or report if the person knowingly
  - (5) gives false information to a public employee relating to a person's eligibility for a permanent fund dividend under AS 43.23 and the false information does not also violate AS 11.56.205.
- (b) False information or report is a class A misdemeanor. (§ 6 ch 166 SLA 1978; am § 1 ch 30 SLA 1987; am § 14 ch 65 SLA 2000; am § 2 ch 66 SLA 2000; am § 16 ch 92 SLA 2002; am § 10 ch 42 SLA 2006)

## TITLE 15 REVENUE

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## Chapter 05. Administration of Revenue Laws

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**15 AAC 23.103. Application generally.**

- (a) An individual must use a form prescribed by the department to apply for a dividend. An application signed, delivered, or postmarked before the application period begins is not a valid application. A prescribed application form must be received by the department or postmarked during the application period set by AS 43.23.011 to be considered timely filed. An application mailed before, but postmarked after the end of the application period, is not timely filed. If the envelope in which the application was mailed bears both a private meter stamp and a United States Postal Service or foreign postal service postmark, the department will disregard the meter stamp and use the postal service postmark to determine timely filing.
- (b) An individual who dies before the application period set by AS 43.23.011 is not eligible for a dividend. An application may not be made on behalf of an individual after that individual has died, unless the application was signed by the individual or the individual's authorized representative before the individual's death, or unless the individual died during the application period set by AS 43.23.011.
- (c) An individual applying for a dividend must provide a current mailing and physical address with the application. If a corrected address for the individual is provided to the department by the United States Postal Service or a foreign postal service, the department may use that address. If the individual's mailing or physical address changes before the dividend is paid or during the appeal or collection process, the individual must notify the department in writing of the change in address. Except in the case of a minor parent filing on behalf of that parent's own minor child under 15 AAC 23.113(b)(1)(C), the department will not implement a change of address requested by an individual who is a minor unless the individual submits proof satisfactory to the department of emancipation with the request.
- (d) An individual born outside Alaska who is filing for a dividend for the first time must submit a certified copy of the individual's birth certificate issued by the official agency of the other state or country responsible for recording births, or must submit an original passport or an original United States naturalization certificate. An individual born in Alaska who is filing for a dividend for the first time need not submit a certified copy of the individual's birth certificate. However, if the individual was born in Alaska and the department is unable to confirm the birth with Alaska's division of public health, vital statistics, the individual must submit a certified copy of the individual's Alaska birth certificate.

- (e) Absences that total more than 90 days during the qualifying year must be disclosed on the application. Any absence since January 1 of the qualifying year must be disclosed upon request of the department.
- (f) Except as provided in AS 43.23.015(d), 15 AAC 23.113, and 15 AAC 23.123, an individual applying for a dividend must personally sign the certification of residency and eligibility contained on the application form. The department will deny an application if the certification is altered, unless the alteration does not substantially change the content of the certification.
- (g) It is an individual's responsibility to ensure that an application is timely delivered to the department. A paper application must be timely delivered to the department during normal business hours or delivered to the post office in sufficient time to be postmarked before the end of the application period. The department will deny a paper application postmarked after the application period, unless the individual provides the department with an official statement from the United States Postal Service or a foreign postal service that describes the specific circumstances under which the postal service incorrectly posted the individual's application or caused a delay in posting. An online application must be received electronically by the department by midnight Alaska Daylight Time on the last day of the application period. An applicant's proof of timely filing an online application is a copy of the computer generated page containing the permanent fund dividend confirmation number received by the applicant after completing the online filing process that shows that the online application was timely delivered to the department.
- (h) If an individual has timely filed an application but the department does not have that application on file, the individual may submit a request to reapply on or before December 31 of the dividend year. A request to reapply must be accompanied by one of the following forms of evidence that an application was timely filed with the department:
  - (1) a mailing receipt;
  - (2) a mailing return receipt documenting delivery to the department, or a receipt issued by the department;
  - (3) a copy of the computer generated page containing the permanent fund dividend confirmation number received by the applicant after completing the online filing process;

- (4) if the previous application was filed on or after January 1, 2009, a notarized affidavit in which the individual attests that the individual mailed or submitted the previous application timely, or a sponsor applying on behalf of the individual attests that the sponsor mailed or submitted the previous application timely; an individual may request to reapply under this paragraph only once during the individual's lifetime.
- (i) Unless the department has initiated a criminal investigation involving the individual or the application, an individual may withdraw an application at any time before payment by notifying the department in writing. An individual may retract the withdrawal only during the application period by filing a new application before the end of the application period. After the application period closes, the department will not honor a retraction of the withdrawn application.
- (j) The department will deny an application if the department determines that an individual has intentionally provided deceptive information such as failing to disclose a reportable absence to the department.
- (k) An electronic signature satisfies the personal signature requirements of (f) of this section if the electronic signature is
- (1) executed or adopted by the individual with the intent to attest to a statement concerning the applicant's residency and eligibility;
  - (2) verified by the electronic signature verification system designated by the commissioner of administration and established in 2 AAC 05.200 - 2 AAC 05.295; and
  - (3) is securely linked to the application form and stored together with the application as one document.
- (l) In this section
- (1) "electronic signature" has the meaning given in AS 09.80.190;
  - (2) "statement" has the meaning given in AS 11.56.240. (Eff. 1/1/93, Register 124; am 10/8/94, Register 131; am 3/30/95, Register 133; am 8/24/95, Register 135; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; add'l am 1/1/2003, Register 164; am 1/1/2005, Register 172; am 1/1/2006, Register 176; am 1/1/2007, Register 180; am 1/1/2008, Register 184;

am 1/1/2009, Register 188; am 1/1/2010, Register 192)

Authority: AS 09.80.150

AS 09.80.160

AS 09.80.190

AS 43.05.290

AS 43.23.005

AS 43.23.011

AS 43.23.015

AS 43.23.035

AS 43.23.055

**15 AAC 23.113. Application on behalf of a child.**

- (a) An application for a dividend filed on behalf of a child must comply with the requirements of 15 AAC 23.103.
- (b) A child who otherwise qualifies is eligible to receive a dividend if the child is
  - (1) in the lawful and physical custody of a sponsor who is eligible for a dividend, would have been eligible for a dividend had the sponsor filed timely, was only ineligible due to AS 43.23.005(d), or forfeited dividends under AS 43.23.035(a) or (c), and who is
    - (A) an adult relative in a full, half, or step relationship, or is a legal guardian;
    - (B) for a child who does not have a qualified sponsor under (A) of this paragraph, an authorized representative with whom the child resides and the department determines that a need exists for that adult to sponsor the child; or
    - (C) a minor parent filing on behalf of that parent's own minor child;
  - (2) in the custody of an agency of the state; or
  - (3) released into the child's own custody by the Alaska Department of Health and Social Services under a court order.
- (c) A child whose adoption is pending during the qualifying year and who otherwise qualifies is eligible for a dividend regardless of the child's alienage or length of residency if

- (1) the child's sponsor is a resident and was a resident during the entire qualifying period;
  - (2) the sponsor has physical custody of the child before the end of the qualifying year; and
  - (3) the adoption is ultimately finalized according to state law.
- (d) The department will not approve for payment the application of the child being adopted until the sponsor provides documentation, satisfactory to the department, that the adoption has been finalized according to state law.
- (e) An application for a dividend may be filed on behalf of a child only by the adult resident through whom the child claims residency, or by another authorized representative. Except as provided in (f) and (g) of this section, an individual or agency applying on behalf of a child must have had lawful and physical custody of the child for a plurality of the qualifying year.
- (f) A representative of the Alaska Department of Health and Social Services may apply for a dividend for a child who is in that department's custody on December 31 of the qualifying year.
- (g) An individual or agency other than the Alaska Department of Health and Social Services who did not have lawful and physical custody of the child for a plurality of the qualifying year may apply on behalf of a child, if that individual or agency demonstrates to the satisfaction of the department the need for filing an application on behalf of the child.
- (h) The department will, in its discretion, require an individual applying on behalf of a child to provide evidence of the individual's authority to apply on behalf of the child, including
- (1) the child's birth certificate issued under AS 18.50 or under other similar provisions of law of another jurisdiction, showing the name of the individual making application as a parent of the child;
  - (2) a certified copy of a decree of divorce or dissolution of marriage issued under AS 25.24 or under other similar provision of law of another jurisdiction, showing the name of the individual making application as having sole or joint custody of the child;

- (3) a certified copy of an adoption order or post-adoption birth certificate issued under AS 25.23 or under other similar provisions of law of another jurisdiction, showing the name of the individual making application as an adoptive parent of the child; or
  - (4) other information demonstrating the individual's qualification to apply for a dividend on behalf of the child.
- (i) The department will accept another eligible individual as a substitute sponsor of a child if the child meets all eligibility requirements but does not have an eligible sponsor on file with the department, so long as the substitute sponsor meets the requirements of a sponsor. The department will not approve the child's application for payment until such time as the substitute sponsor has been determined to be eligible by the department.
  - (j) The department will reverse a denial of a child's permanent fund dividend application if the child was denied only due to the ineligibility of the child's original sponsor and the child's original sponsor is subsequently determined during processing, at review, at informal conference, at formal hearing, or by a court to be eligible for a dividend. (Eff. 1/1/93, Register 124; am 6/26/93, Register 126; am 12/24/93, Register 128; am 10/8/94, Register 131; am 3/30/95, Register 133; am 11/20/96, Register 140; am 1/1/99, Register 148; am 1/1/2006, Register 176; am 1/1/2011, Register 196)

Authority: AS 43.23.015  
AS 43.23.055

**15 AAC 23.123. Application on behalf of a disabled, incompetent, or other adult.**

- (a) An application for a dividend filed on behalf of another adult must comply with the requirements of 15 AAC 23.103.
- (b) An application for a dividend may be filed on behalf of a disabled adult only by the disabled adult's spouse, parent, legal guardian, or other authorized representative. Medical documentation regarding the disability must be provided with the disabled individual's application.
- (c) An application for a dividend may be filed on behalf of an incompetent adult only by the incompetent adult's parent, guardian, or conservator appointed under AS 13.26 or under other similar provision of law of this state or of another jurisdiction.

- (d) An individual, to whom a power of attorney has been granted, may file an application for a dividend on behalf of an adult, if the power of attorney is a general power of attorney or the power of attorney specifically authorizes the individual to file a dividend application on the adult's behalf.
- (e) Evidence of the authority of the individual applying on behalf of an adult under (b), (c), or (d) of this section must be attached to the application, and the circumstances requiring the signature by someone other than the applicant must be clearly set out and explained. The individual making application on behalf of another adult must certify to the facts underlying the adult's eligibility for a dividend and must sign the application on behalf of the adult. (Eff. 1/1/93, Register 124; am 1/1/2006, Register 176; am 1/1/2008, Register 184)

Authority: AS 43.23.015  
AS 43.23.055

**15 AAC 23.133. Application for a prior year dividend.**

- (a) Except as provided in (b) - (e) of this section, application for a prior year dividend will be denied by the department.
- (b) An individual who has reached majority, or who is an emancipated minor, may apply to the department for a prior year dividend if
  - (1) the individual had not reached majority by the end of the application period for the dividend year for which the individual is applying;
  - (2) a complete application was not filed by an eligible sponsor on the individual's behalf, was not timely filed, or, solely as a result of competing applications being filed, was not paid; and
  - (3) the individual would have qualified for a dividend had an eligible sponsor applied on the individual's behalf during the pertinent dividend year.
- (c) An individual who qualifies under (b) of this section must file, before the individual reaches 20 years of age, an application prescribed by the department.
- (d) If an individual was disabled, as defined in AS 43.23.095, during the application period of the prior year and, as a result of the disability, did not timely file an application, that individual or an authorized representative may submit an application for the prior year dividend. A certification from a

licensed health care provider must be provided with the disabled individual's application. The certification from a licensed health care provider must include

- (1) confirmation that the individual was disabled on March 31 of the dividend year for which the individual is applying; and
  - (2) a statement explaining why the disability prevented the applicant from timely filing an application during the application period of the dividend year for which the individual is applying.
- (e) Except for extraordinary circumstances as determined by the department, an application for an individual who qualifies under (d) of this section must be filed within one year after the end of the application period pertaining to the dividend for which the individual is applying.
- (f) If a representative of the Alaska Department of Health and Social Services failed to apply for a dividend for a child who was in its custody on December 31 of the prior qualifying year, and the department does not have a timely filed application on file for the child, a representative of the Alaska Department of Health and Social Services may submit an application on the child's behalf for the prior year's dividend.
- (g) Except for extraordinary circumstances as determined by the department, an application for a child who qualifies under (f) of this section for the prior year's dividend may be filed only by a Department of Health and Social Services representative and must be filed within one year from the end of the prior year's dividend application period.
- (h) If a representative of the Department of Administration, office of public advocacy failed to apply for a dividend for an individual who was a ward of the agency on December 31 of the prior qualifying year, and the department does not have a timely filed application on file for the individual, a representative of the office of public advocacy may submit an application on the individual's behalf for the prior year's dividend.
- (i) Except for extraordinary circumstances as determined by the department, an application for an individual who qualifies under (h) of this section for the prior year's dividend may be filed only by a Department of Administration, office of public advocacy representative and must be filed within one year after the end of the prior year's dividend application period.



- (j) For the purposes of this section, “licensed health care provider” means a person licensed in this state or another state of the United States to provide health care services. (Eff. 1/1/93, Register 124; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2005, Register 172; am 1/1/2008, Register 184)

Authority: AS 43.23.005  
AS 43.23.015  
AS 43.23.055

**15 AAC 23.143. Establishing and maintaining Alaska residency.**

- (a) An individual's intent to establish residency, remain indefinitely in Alaska, or to return to Alaska and remain indefinitely is demonstrated through the establishment and maintenance of customary ties indicative of Alaska residency and the absence of those ties elsewhere. Acts that are required by law or contract or are routinely performed by temporary residents of Alaska are not by themselves evidence of residency. In evaluating whether an individual claiming Alaska residency has demonstrated an intent to remain indefinitely in Alaska, the department will consider whether or not an individual has:
- (1) taken steps to establish Alaska residency and sever residency in a previous state or country;
  - (2) ties to another state or country that indicate continued residency in the other state or country; and
  - (3) taken other action during the qualifying year, through the date of application, that is inconsistent with an intent to remain in Alaska indefinitely.
- (b) An individual may not become a resident while absent from Alaska.
- (c) Physical presence in Alaska is not, by itself, sufficient to establish residency. Before January 1 of the qualifying year, an individual must have taken at least one step beyond physical presence in Alaska to establish residency. The department will not consider external indicators, including those listed in 15 AAC 23.173(g), established less than six months before December 31 of the qualifying year as evidence of the establishment of Alaska residency in time to qualify for the current year dividend.

- (d) An individual is not eligible for a dividend if, at any time from January 1 of the qualifying year through the date of application, the individual has
- (1) maintained the individual's principal home in another state or country, regardless of whether the individual spent a majority of time at that home, except while absent for a reason listed
    - (A) in AS 43.23.008(a)(1) - (3), (9) - (11), or (16); or
    - (B) in AS 43.23.008(a)(13), if the eligible resident whom the individual accompanies is absent for a reason listed in (A) of this paragraph;
  - (2) claimed or maintained a claim of residency in another state or country in the individual's employment personnel records; if the individual claims an error or a delay was made in processing by the personnel office, the individual must submit
    - (A) from the personnel office, a certified copy of the individual's request to change the individual's state of legal residence; or
    - (B) a sworn statement from the personnel officer who has specific knowledge that the personnel office made an error, or caused a delay, in processing the individual's personnel records; the personnel officer must state the exact date the records show the original request was received and why the request was not processed timely;
  - (3) claimed a nonresident motor vehicle tax exemption in Alaska;
  - (4) accepted full-time, permanent employment in another state or country except while on an absence listed
    - (A) in AS 43.23.008(a)(1) - (3), (9) - (11), or (16); or
    - (B) in AS 43.23.008(a)(13), if the eligible resident whom the individual accompanies is absent for a reason listed in (A) of this paragraph;

- (5) filed a resident or part-year resident income, excise, or personal property tax return in another state or country and the claim of residency on the return is for any period of time beginning January 1 of the qualifying year through the date of application, unless the individual
  - (A) was required by the other state or country to file a return claiming resident tax status in that state or country even though the individual was a state resident as defined in AS 43.23.095; or
  - (B) files in the other state or country an amended return claiming nonresident tax status and provides proof to the department that the amended return was actually filed in the other state or country;
- (6) claimed or maintained a claim of a homestead or homeowner's property tax exemption in another state or country, that required the individual to be a resident of that state or country, unless the individual
  - (A) files an amended homestead or homeowner's property tax exemption claim deleting the claim or residency; and
  - (B) provides evidence from the other state or country that the individual filed an amended homestead or homeowner's property tax exemption claim deleting the claim of residency;
- (7) applied for or received an education loan from another state or country that required an individual to be a resident of that state or country;
- (8) disclosed in a court proceeding or affidavit that the individual is a resident of another state or country;
- (9) executed a will that described residency in another state or country;
- (10) moved from Alaska,
  - (A) for a reason other than one listed
    - (i) in AS 43.23.008 (a)(1) - (3), (9) - (11), or (16); or

- (ii) in AS 43.23.008(a)(13), if the eligible resident whom the individual accompanies is absent for a reason listed in (i) of this subparagraph; and
  - (B) claiming moving expenses as a deduction on the individual's federal income tax return, unless the individual
    - (i) files an amended federal income tax return deleting the claimed moving expenses as a deduction; and
    - (ii) provides proof from the Internal Revenue Service that the individual filed an amended return;
- (11) accepted admission under resident tuition provisions to a college or university in another state or country, unless
  - (A) there was no difference between resident and nonresident tuition;
  - (B) nonresident tuition was waived as part of an interstate exchange agreement such as the Western Interstate Commission for Higher Education (WICHE) student exchange program or the Washington Wyoming Alaska Montana Idaho (WWAMI) medical education program; or
  - (C) the individual was granted admission under resident tuition provisions for any other reason that did not require the individual to be a resident of the state or country in which the college or university is located;
- (12) registered to vote in another state or country, except if the individual
  - (A) registered to vote in another state no more than 60 days before a presidential election solely for the purpose of voting in that election and did not vote in any other election in another state other than for president of the United States; or
  - (B) registered to vote in another country for which the individual was not required to claim residency of the country in order to register to vote;

- (13) voted in another state's or country's state, country, or local election, except if the individual voted in an election described in this paragraph and the individual was not required to claim residency in order to vote;
  - (14) obtained a resident hunting, fishing, or trapping license from another state or country;
  - (15) filed for divorce, dissolution, or legal separation in another state or country that required the individual to be a resident of that state or country in order to file the action;
  - (16) repealed 1/1/2010;
  - (17) obtained any other benefit or benefits as a result of establishing or maintaining any claim of residency in another state or country or by disclaiming Alaska residency, except that the department will not deny a dividend to an individual solely because the individual received Medicaid benefits from another state if the individual's application for Medicaid was consistent with the intent to maintain residency in Alaska.
- (e) Regardless of alienage, a child born outside Alaska to an eligible resident on an allowable absence, adopted by an eligible resident, or whose adoption by an eligible resident is pending during the qualifying year, establishes Alaska residency in the child's own right immediately upon the child's arrival in Alaska if the child's custodial parent or guardian is an eligible resident at the time of the child's arrival in Alaska.
- (f) An individual absent from Alaska as a dependent of an eligible resident who as soon as reasonably possible, as determined by the department, after emancipation does not return to Alaska and establish Alaska residency as an adult is not eligible for a dividend. A newly emancipated individual who was absent from Alaska as a dependent of an eligible resident who returns to Alaska as soon as reasonably possible, as determined by the department, after emancipation and who establishes external indicators of Alaska residency as an individual is not subject to the six month physical presence requirements of 15 AAC 23.163(b).
- (g) A resident who marries a nonresident while physically present in Alaska is considered to have the intent to remain indefinitely in Alaska until the resident takes steps or actions to depart Alaska.

- (h) An individual who on the date of application knows the individual will be moving from Alaska at a specific time to a specific destination for a reason other than one allowed by AS 43.23.008(a) does not have the intent to remain indefinitely in Alaska and is not eligible for a dividend.
- (i) The eligibility of a resident who marries a nonresident while absent from Alaska is not changed by the marriage, so long as the resident is absent for the resident's own allowable reason.
- (j) The fact that an individual's spouse has not declared Alaska residency does not establish a presumption that an individual is not a resident.
- (k) Repealed 1/1/2000. (Eff. 1/1/93, Register 124; am 6/26/93, Register 126; am 12/24/93, Register 128; am 10/8/94, Register 131; am 11/20/96, Register 140; am 4/18/97, Register 142; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 1/1/2005, Register 172; am 1/1/2008, Register 184; am 1/1/2009, Register 188; 1/1/2010, Register 192; am 1/1/2011, Register 196)

Authority: AS 01.10.055  
 AS 43.23.005  
 AS 43.23.008  
 AS 43.23.015  
 AS 43.23.055

### **15 AAC 23.153. Eligibility of Aliens.**

repealed. (Eff. 1/1/93, Register 124; am 11/20/96, Register 140; am 4/18/97, Register 142; em am 6/4/99 - 10/1/99, Register 151; repealed 1/1/2000, Register 152)

### **15 AAC 23.154. Eligibility of Aliens.**

- (a) The department will consider an alien to be lawfully admitted for permanent residence if the alien provides verification that the alien has been assigned a status under 8 U.S.C. 1101 – 1189 (Immigration and Nationality Act) that allows the alien to adopt the United States as the alien's domicile, including the following statuses:
  - (1) status as an immigrant within the meaning of 8 U.S.C. 1101(a)(15), as verified by the USCIS;

- (2) status as a nonimmigrant within the meaning of 8 U.S.C. 1101(a)(15), as verified by the USCIS, if that status does not require the alien to declare that the alien has a residence in a country other than the United States;
  - (3) indefinite parole into the United States under 8 U.S.C. 1182(d)(5), as verified by the USCIS;
  - (4) a status described in 8 U.S.C. 1186a (Conditional Permanent Resident Status for Certain Alien Spouses and Sons and Daughters) or 8 U.S.C. 1186b (Conditional Permanent Resident Status for Certain Alien Entrepreneurs, Spouses, and Children), as verified by the USCIS.
- (b) The department will not consider an alien to be lawfully admitted for permanent residence if the USCIS assigns the alien a status that requires the alien to declare that the alien has a residence in a country other than the United States.
- (c) The department will consider an alien to be a state resident for purposes of AS 43.23.005(a)(3) on the date that the alien can demonstrate, to the satisfaction of the department, that the alien has formed the intent to remain indefinitely under the requirements of AS 43.23 and this chapter. The qualifying year for dividend eligibility for an alien who is a state resident begins on January 1 of the calendar year after the date the alien is lawfully admitted for permanent residence in the United States under this chapter, granted asylum under 8 U.S.C. 1158, or granted refugee status under 8 U.S.C. 1157 or 8 U.S.C. 1159.
- (d) If an alien may adopt the United States as the alien's domicile, but has been assigned, under 8 U.S.C. 1101 – 1189 (Immigration and Nationality Act), a nonimmigrant status allowing only a limited stay in the United States, the department will not consider the alien to be a resident under AS 43.23.005(a)(3) and this section, unless the department finds that the alien has taken a significant step to convert or adjust to a permanent or indefinite status. A significant step includes the filing of a petition or application with the USCIS.
- (e) An alien seeking eligibility under this section has the burden of proving that on the date of the dividend application the alien was lawfully admitted for permanent residence as described in (a) of this section, granted asylum under 8 U.S.C. 1158, or granted refugee status under 8 U.S.C. 1157 or 8 U.S.C. 1159.

- (f) A foreign-born child adopted by an eligible resident is not subject to this section.
- (g) For purposes of this section,
  - (1) "alien" has the meaning given in 8 U.S.C. 1101(a)(3), as revised as of September 1, 2001 and adopted by reference;
  - (2) "USCIS" means the United States Citizenship and Immigration Service. ( Eff. 10/17/2001, Register 160; am 1/1/2005, Register 172)

Authority: AS 43.23.005  
AS 43.23.015  
AS 43.23.055

**15 AAC 23.163. Allowable absences.**

- (a) Except as provided in AS 43.23.005(c), an individual who has never been physically present in Alaska may not claim an allowable absence under AS 43.23.008.
- (b) An individual who was absent from Alaska for more than 180 days is not eligible for a dividend if the individual
  - (1) was not a state resident for at least 180 days immediately before departure from Alaska;
  - (2) repealed 1/1/2000.
- (c) For purposes of
  - (1) AS 43.23.008(a)(1), receiving secondary or postsecondary education on a full-time basis means enrollment and attendance in good standing as a full-time student where participation requires absence from this state
    - (A) at an academic institution for any of the 7th - 12th grades consistent with (d) of this section;



- (B) for the purpose of pursuing a vocational certificate, associate, baccalaureate, or graduate degree, as a full-time student at a college, university, junior or community college, or postsecondary vocational institution accredited by an accrediting agency that the United States Secretary of Education recognizes under 34 C.F.R. Part 602, or full-time participation in an internship program if the internship is required by the college or university as part of the student's academic program; for the purposes of this subparagraph, an individual in the last academic year before graduation who was carrying enough credits to graduate, but fewer than full-time credits for any one term, semester, or quarter, is considered to have been a full-time student at that time; or
  - (C) the purpose of pursuing a vocational certificate, associate, baccalaureate, or graduate degree, as a full-time student
    - (i) at a Title IV institution recognized under 20 U.S.C. 1001 – 1155 (The Higher Education Act of 1965) and 34 C.F.R., Part 600; or
    - (ii) at a non-accredited college or university if students attending the college or university may qualify as eligible to receive a student loan from Nellie Mae, or if the college or university's credits or degrees are accepted by at least three Title IV institutions recognized under 20 U.S.C. 1001 – 1155 (the Higher Education Act of 1965) and 34 C.F.R., Part 600;
  - (D) for the purposes of completing an internship or residency program at a hospital or medical clinic;
- (2) AS 43.23.008(a)(2), receiving vocational, professional, or other specific education on a full-time basis means attending a program for which, as determined by the Alaska Commission on Postsecondary Education, a comparable program is not reasonably available in the state at an educational institution eligible to participate in financial aid programs administered by the Alaska Commission on Postsecondary Education.
- (d) An individual clearly demonstrates that the primary reason for the individual's absence is to obtain a secondary education by living at a

boarding school while attending grades 7 - 12 at an out-of-state institution. An individual who lives with an ineligible parent or ineligible permanent legal guardian while attending an out-of-state institution has not demonstrated that the primary reason for the individual's absence is to obtain a secondary education.

- (e) Repealed 10/8/94.
- (f) An individual whose absence or combination of absences, under a provision of AS 43.23.008 other than AS 43.23.008(a)(9) - (10), and (13), if the eligible resident whom the individual accompanies is absent for a reason specified in AS 43.23.008(a)(9) or (10), totals more than five consecutive years is presumed not to have the intent to return to Alaska and remain indefinitely in Alaska. In such a case, the individual is not eligible for a dividend payment unless the individual provides, with the individual's application or in a timely response to a request by the department, documentation that demonstrates to the department's satisfaction an intent at all times during the absence or absences to return to Alaska and remain indefinitely in Alaska.
- (g) When considering whether an individual who has been absent for more than five years has rebutted the presumption that the individual does not have the intent to return to Alaska and remain indefinitely in Alaska, the department will consider one or more of the following factors, as applicable:
  - (1) the length of the individual's absence compared to the time the individual spent in Alaska before departing on the absence;
  - (2) the frequency and duration of return trips to Alaska during the absence; the fact that the individual has returned to Alaska in order to meet the physical presence requirement of AS 43.23.005(a)(4) is not sufficient in itself to rebut the presumption of ineligibility;
  - (3) whether the individual's intent to return or remain is conditioned upon future events beyond the individual's control, such as economics or finding a job in Alaska;
  - (4) any ties the individual has established outside Alaska, such as maintenance of homes, payment of resident taxes, vehicle registrations, voter registration, driver's licenses, or receipt of benefits under a claim of residency in another state;

- (5) the priority the individual gave Alaska on an employment assignment preference list, such as those used by military personnel;
  - (6) whether the individual made a career choice or chose a career path that does not allow the individual to reside in Alaska or return to Alaska; and
  - (7) any ties the individual has maintained in Alaska such as ownership of real and personal property, voter registration, professional and business licenses, and any other factors demonstrating the individual's intent.
- (h) When considering whether an individual who has been absent for more than five years has rebutted the presumption that the individual does not have the intent to return to Alaska and remain indefinitely in Alaska,
- (1) the department will give greater weight to the claim of an individual who makes frequent voluntary return trips to Alaska during the period of the individual's absence than to the claim of an individual who does not;
  - (2) the department will generally consider that an individual who has not been physically present in Alaska for at least 30 cumulative days during the past five years has not rebutted the presumption; however, this consideration does not apply if the individual shows to the department's satisfaction that unavoidable circumstances prevented that individual from returning for at least 30 cumulative days during the past five years.
- (i) Repealed 1/1/2000.
- (j) The department will count whole days when determining the number of days an individual was absent from Alaska. The department will count the day an individual arrives or returns to Alaska as a day absent unless the individual previously left Alaska that same day. The department will count the day an individual leaves Alaska as a day an individual was in Alaska, unless the individual previously arrived or returned to Alaska that same day.
- (k) For the purposes of AS 43.23.008(c), an individual is not considered otherwise eligible if the individual was absent from the state for more than 180 days in each of the preceding 10 qualifying years. (Eff. 1/1/93, Register 124; am 6/26/93, Register 126; am 12/24/93, Register 128; am 10/8/94,

Register 131; am 11/20/96, Register 140; am 4/18/97, Register 142; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 05/09/2003, Register 166; am 1/1/2005, Register 172; am 1/1/2008, Register 184; am 1/1/2010, Register 192; am 1/1/2011, Register 196)

Authority: AS 43.23.005  
AS 43.23.008  
AS 43.23.015  
AS 43.23.055  
AS 43.23.095

### **AC 23.173. Proof of eligibility.**

- (a) An individual must indicate, on forms prescribed by the department, information required by the department that will support the claim of residency and physical presence in Alaska as required by AS 43.23.005. The information must include the names, addresses, and telephone numbers of adult Alaska residents who can attest to facts relating to the individual's length of residence and physical presence in Alaska.
- (b) The department will, in its discretion, require an individual to provide other information to accompany the individual's application. If the department notifies an individual that the information included on, or provided with, the application form is insufficient for any reason, the individual must provide the additional information as requested by the department. If the other information requested by the department is not available at the time of application or the request, the individual must specify why the information is not available, and the date by which the information will be submitted to the department.
- (c) An individual must provide all information requested by the department for processing within 30 days after the date of the request. Information delivered to the department or postmarked within 30 days after the date of the request is considered timely. An individual may request, for good cause, an extension of the 30 days to respond to a department request for information. If the department determines that good cause exists and grants an extension, the department will determine the time period of the extension on a case-by-case basis. Information not timely received will not be considered in the initial eligibility determination; however, it may be considered on subsequent appeal.
- (d) If an individual has not provided all information for processing requested by the department within 30 days after the date of the request or the time period

granted in an extension under (c) of this section, the application will be denied.

- (e) An individual whose spouse is not a resident eligible for a dividend must provide documentation that demonstrates an intent to remain indefinitely in Alaska despite the non-residency of the individual's spouse. The department will, in its discretion, require additional proof of the individual's intent to remain in Alaska.
- (f) An individual described in this subsection may be eligible to receive a dividend if, with the application, the individual provides documentation that demonstrates to the department's satisfaction an intent to remain indefinitely in Alaska despite the nature of the individual's employment in Alaska. The department may require additional proof of the individual's intent to remain in Alaska. This subsection applies to
  - (1) an individual transferred to Alaska on temporary assignment by the individual's employer for a definite period of time;
  - (2) an individual who is employed in Alaska on a seasonal basis;
  - (3) an individual who is working in Alaska under a contract that requires the employer to return the individual to a place outside of Alaska at the end of the contract; or
  - (4) an individual who is employed in Alaska but who maintains a home or other abode outside Alaska to which the individual regularly travels.
- (g) Proof bearing on an individual's intent to remain indefinitely in Alaska might be any proof acceptable to the department, including
  - (1) a contract to move household goods to Alaska, except when there is a contract to move household goods from Alaska at the end of the individual's employment;
  - (2) proof of home ownership, a home purchase contract, rent receipts, or other proof that the individual maintains a principal place of abode in Alaska, except when housing is provided as a part of an employment contract;
  - (3) employment and unemployment records, including a copy of the leave and earnings statement of a military member for

- (A) December of the year before the qualifying year; and
  - (B) the most recent month;
  - (4) tax records;
  - (5) school records;
  - (6) voter registration and voting records;
  - (7) motor vehicle registration records;
  - (8) licensing records such as those for hunting and fishing licenses;
  - (9) court or other government agency records; or
  - (10) birth or other vital statistics records.
- (h) Proof of physical presence in Alaska might be any proof acceptable to the department, including
- (1) records or receipts of airlines, the Alaska Marine Highway system, or other carriers;
  - (2) hotel receipts;
  - (3) traffic citations;
  - (4) repealed 1/1/2002;
  - (5) affidavits or certifications by adult residents acquainted with or related to the applicant who have personal knowledge of the applicant's physical presence in Alaska.
- (i) The burden of proof rests on an individual claiming an allowable absence to prove that the individual has maintained, at all times during the absence, the intent to return and remain indefinitely in Alaska.
- (j) If an individual is denied under (d) of this section, the department will reverse the denial if the
- (1) only reason the individual was denied was because the individual failed to provide requested information for processing timely;

- (2) individual timely requests an informal conference under 15 AAC 05.020; and
- (3) requested information is provided by the time of the individual's informal conference;
- (4) repealed 8/24/95;
- (5) repealed 8/24/95. (Eff. 1/1/93, Register 124; am 12/28/93, Register 128; am 10/8/94, Register 131; am 8/24/95, Register 135; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2005, Register 172)

Authority: AS 43.23.015  
AS 43.23.055

**15 AAC 23.183. Individuals identified as incarcerated for certain offenses.**

- (a) If the Department of Corrections or the Department of Public Safety advises the department in writing that the Department of Corrections or the Department of Public Safety incorrectly identified an individual as being incarcerated or sentenced as the result of a conviction for an offense as described in AS 43.23.005(d), the department will reverse a denial issued as a result of the Department of Corrections or the Department of Public Safety error even if the individual does not have an appeal of the denial pending before the department or the court.
- (b) An individual who was correctly identified as incarcerated or sentenced for an offense as described in AS 43.23.005(d), and consequently was denied a dividend, may appeal a denial of a dividend issued under AS 43.23.005(d) within 60 days of the reversal or vacating of the disqualifying convictions for which the individual was incarcerated or sentenced. The department will overturn any denial of an individual who
  - (1) has a valid appeal of the individual's dividend denial pending before the department or a court;
  - (2) can demonstrate to the department's satisfaction that all disqualifying convictions for which the individual was incarcerated or sentenced during the qualifying year for that dividend have been vacated or reversed; and

- (3) is otherwise eligible for the dividend. (Eff. 1/1/93, Register 124; am 11/20/96, Register 140; am 4/18/97, Register 142)

Authority: AS 43.23.005

AS 43.23.015

AS 43.23.055

**15 AAC 23.193. Payment of dividends to individuals identified as non-compliant sex offenders.**

- (a) On or before September 25 of each year, the department will mail, to the address provided on the dividend application, a written notice to applicants whose dividend payment will be delayed under AS 43.23.021(a).
- (b) The department will not pay a dividend to an applicant that has been sent a written notice under (a) of this section, unless the applicant provides the department with an original, signed letter from Department of Public Safety verifying that the applicant has registered and is in compliance with the verification and notices required under AS 12.63. The letter from the Department of Public Safety must be dated after the date of the written notice under (a) of this section and must be received by the department within one year after the date of the written notice in (a) of this section. (Eff. 4/24/2009, Register 190)

Authority: AS 43.23.015

AS 43.23.021

**15 AAC 23.203. Assignments.**

- (a) The department will not implement an assignment, or a transaction, of whatever nature, that the department determines to be an assignment, of a dividend unless the assignee named is an agency authorized to receive an assignment under AS 43.23.069.
- (b) An assignment of a dividend may not be made if application for the dividend was made on behalf of a child or made on behalf of an incompetent or disabled adult, except that the dividend of a child may be assigned to satisfy restitution agreed to, or required under AS 47.12.120 or to satisfy a court-ordered fine or judgment for court-appointed attorney fees.
- (c) Once an assignment is made and submitted to the department, a retraction of that assignment by the assignor will not be honored by the department.
- (d) An assignment must be made in writing on a form provided by the department, signed by the assignor, and properly executed in the presence of



two disinterested witnesses or a notary public, and filed with the department before the final processing of the assignor's dividend application. However, assignments made on behalf of a child must be executed by the sponsor of the original application or by an official appointed by the state court system.

- (e) Repealed 1/1/2002.
- (f) Upon receipt of a written request from an applicant, the department will change an applicant's University of Alaska College Savings Plan check-off response. The department will not guarantee processing of a request received after August 1 of the dividend year.
- (g) If, for purposes of AS 43.23.065(d), April 1 falls on a Saturday, Sunday, Monday, or state holiday, the date becomes the next working day. (Eff.1/1/93, Register 124; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 1/1/2005, Register 172)

Authority: AS 43.23.015

AS 43.23.055

AS 43.23.065

AS 43.23.069

### **15 AAC 23.213. Attachments.**

- (a) Notwithstanding the provisions of AS 43.23.065, 100 percent of a dividend payable to an individual under AS 43.23.005 - 43.23.095 is available for attachment in the collection of money owed to the United States if the notice of levy served on the department by an agency of the United States under federal law preempts state law.
- (b) Except as provided in (h) of this section, a writ of execution issued to enforce a judgment of the court must be served in the manner set out in Rule 4(c)(1) of the Alaska Rules of Civil Procedure. A service by certified mail, return receipt requested, may only include one Notice of Levy/Writ of Execution. Service may be made in writing upon the department on the department's website, or in person only at locations designated by the department during the hours the location is open to the public.
- (c) As required by AS 09.35.110, a notice of levy must accompany a writ of execution. If the notice of levy is made electronically, a CD-ROM containing the image of the writ of execution must be received by the department no

later than 10 days after successful submission of the levy file. If the notice of levy is made in person, the writ of execution must be submitted with the levy file. A notice of levy that is submitted without the required writ of execution will be rejected.

- (d) In order to establish a positive identification between the attachment and an individual's dividend file, the department will require a three-point match. All matches between the attachment and the dividend file must be exact. The matches will be made against any three of the following:
  - (1) first name;
  - (2) date of birth;
  - (3) social security number; or
  - (4) last name.
- (e) The individual whose dividend was attached may not maintain a claim against the department for honoring the attachment.
- (f) A levy under a writ of execution or an equivalent document will be placed only against an individual's current year dividend. However, the limitation of this subsection does not apply if the equivalent document is an administrative withholding order issued by the department's child support services agency for the collection of child support.
- (g) Notwithstanding the requirements of AS 43.23.065(c), if the department is served with an order of a bankruptcy court related to an individual eligible for a dividend before payment of the dividend, the department will issue the individual's dividend to the bankruptcy court or trustee.
- (h) A government agency that has administrative levy power may perform service through its own agent or by electronic media. All services by electronic media must be accompanied by
  - (1) repealed 1/1/2008.
  - (2) a completed form provided by the department on which the agency certifies that
    - (A) the information on the electronic media is correct and complete;

- (B) the agency has identified the individuals on the electronic media file in accordance with the criteria of (d) of this section; and
  - (C) each dividend to be levied is supported by an administrative levy.
- (i) Attachments, garnishments, or levies served on the department on the same date and at the same time at any of the following locations will be processed by the department in the following order:
- (1) those submitted electronically on the department's website, which will be made available at 12:01 a.m. Alaska Daylight Time on April 1 as described in (j) of this section; for purposes of this paragraph, the date and time of service are the date and time the submitter initiated upload of a successful submission of a levy file on the department's website; successfully submitted levy files will receive a confirmation number;
  - (2) those personally delivered to the department in Juneau;
  - (3) those personally delivered to the department in Anchorage;
  - (4) those personally delivered to the department in Fairbanks;
  - (5) those delivered by certified mail to the department in Juneau.
- (j) For the purposes of AS 43.23.065(d) and this section, if April 1 falls on a Saturday, Sunday, Monday, or state holiday, the date becomes the next working day. (Eff. 1/1/93, Register 124; am 3/30/95, Register 133; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2007, Register 180; am 1/1/2008, Register 184; am 1/1/2011, Register 196)

Authority: AS 09.35.330  
AS 09.40.030  
AS 43.23.055  
AS 43.23.065

### **15 AAC 23.223. Payment of dividends.**

- (a) Repealed 1/1/2005.

- (b) An eligible individual, including a child, may qualify to have the department directly deposit the individual's dividend into the individual's financial institution account, if the
- (1) individual or the individual's sponsor specifically requests in writing direct deposit of the dividend;
  - (2) individual or the individual's sponsor provides in writing a valid account number for a financial institution that has entered into agreement with the department to participate in direct deposit of dividends;
  - (3) individual or the individual's sponsor provides the department a valid social security number;
  - (4) participating financial institution communicates
    - (A) that the institution has an open account exactly matching the account number provided by the individual or the individual's sponsor; or
    - (B) repealed 8/22/97;
    - (C) that, if the institution records do not exactly match the information in (A) of this paragraph, the institution has enough corroborating information regarding the account to ensure the deposit will be made to the individual's or the individual's sponsor's account and the institution indemnifies the department against deposit errors resulting from that institution's inability to exactly match the information in (A) of this paragraph; and
  - (5) individual's application is not missing information or still subject to an eligibility determination when direct deposit payments are made by the department.
- (c) Upon the request of the sponsor of an eligible child, the department will deposit the child's dividend into the sponsor's account provided the requirements of (b) of this section are met.
- (d) The department will electronically deposit the dividends of all individuals who qualify for direct deposit under (b) and (c) of this section as the first payments issued each year.

- (e) An individual who does not qualify for direct deposit or who does qualify, but for whom the department does not make a direct deposit of the individual's dividend to the individual's account, may not maintain a claim against the department. A child whose dividend has been directly deposited into the child's sponsor's account under the provision of (c) of this section may not maintain a claim against the department for honoring the request of the sponsor.
- (f) The department will make payment of an assigned or attached dividend in accordance with AS 43.23.065, 15 AAC 23.203, and 15 AAC 23.213.
- (g) The department will pay a dividend to a public agency trust account established in accordance with AS 43.23.015(e) if the
  - (1) public agency claims a dividend on behalf of an individual;
  - (2) public agency timely provides the department with a court order showing the agency has been granted guardianship or conservatorship of the individual; and
  - (3) individual is otherwise eligible for the dividend.
- (h) If competing applications are timely filed on behalf of an eligible child, the department will not pay any dividend for the child unless
  - (1) all adults who have timely filed for that child have consented in a signed statement to payment on only one of the timely filed applications;
  - (2) all but one adult have submitted signed statements withdrawing all timely filed competing applications filed on behalf of the child;
  - (3) the department receives a court order directing the department to send the child's dividend to the court or to one of the adults who filed timely on behalf of the child;
  - (4) one of the timely filed competing applications was filed by the Department of Health and Social Services under the provisions of 15 AAC 23.113(f); or
  - (5) the child applies and qualifies for the dividend under the provisions of 15 AAC 23.133(b).

- (i) An application timely filed by the Department of Health and Social Services for an eligible child under the provisions of 15 AAC 23.113(f) will be paid over all timely filed competing applications in accordance with (g) of this section. If the Department of Health and Social Services obtains legal custody of an eligible child before the department has paid an application filed by any other sponsor of the child, the department will pay the child's dividend in accordance with (g) of this section if the Department of Health and Social Services furnishes the department
  - (1) evidence of the change in legal custody; and
  - (2) a timely request for a change of address.
  
- (j) If competing applications are timely filed on behalf of an eligible disabled or incompetent adult, the department will not pay any dividend for the adult unless
  - (1) all individuals or agencies who have timely filed for the adult have consented in writing to payment of only one of the timely filed applications;
  - (2) all but one individual or agency have withdrawn all timely filed competing applications filed on behalf of the adult;
  - (3) the department receives a court order directing the department to pay one of the individuals or agencies who timely filed on behalf of the adult; or
  - (4) one of the competing timely filed applications was filed by the Department of Administration, office of public advocacy.
  
- (k) An application timely filed by the Department of Administration, office of public advocacy, for an eligible adult under 15 AAC 23.123 will be paid over all timely filed competing applications in accordance with (g) of this section. If the Department of Administration obtains legal custody of an eligible adult before the department has paid an application filed by any other sponsor of the adult, the department will pay the adult's dividend in accordance with (g) of this section if the office of public advocacy furnishes the department
  - (1) evidence of the change in legal custody; and
  - (2) a timely request for a change of address before the dividend is issued.

- (l) An individual who does not redeem a dividend because the warrant was returned to the department as undeliverable, or because the individual failed to redeem the warrant within six months, may apply to the department for the dividend to be reissued.
- (m) Repealed 1/1/99.
- (n) The department will calculate the amount of dividends that would have been paid to individuals who were ineligible to receive dividends under AS 43.23.005(d) if they had otherwise been eligible, by applying the percentage of individuals on the lists provided annually to the department under AS 43.23.055(5) who apply for a dividend and are determined to be otherwise eligible had that person not been declared ineligible for a dividend under AS 43.23.005(d), to the total number of individuals on the lists provided annually. (Eff. 1/1/93, Register 124; am 6/16/93, Register 126; am 12/24/93, Register 128; am 12/28/93, Register 128; am 8/24/95, Register 135; am 8/22/97, Register 143; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 1/1/2005, Register 172; am 1/1/2006, Register 176; am 1/1/2008, Register 184)

Authority: AS 43.23.015  
AS 43.23.055

**15 AAC 23.233. Disallowance of claims and recovery of assessments.**

- (a) The department will, in its discretion, recover a dividend payment from the individual who received a payment or from the individual who applied on behalf of another individual, and, in the case of multiple payments made to another individual, from any individual who applied for and received one of the multiple payments if the department determines that
  - (1) an individual was not qualified to apply on behalf of another individual;
  - (2) the other individual was not eligible for the dividend; or
  - (3) more than one payment was made on behalf of the other individual.
- (b) If an individual who applies for a dividend on behalf of another becomes subject to the forfeiture provision of AS 43.23.035, that individual forfeits not only the dividend payment that was wrongfully claimed on behalf of another, but also forfeits all dividends that the individual has received in the past and all dividends for which the individual would otherwise be eligible in the future.

- (c) The department will not assess a previously paid ineligible individual if the individual's application or the individual's sponsor's application was either previously reviewed by the department's review unit and approved for payment, or was paid upon appeal, as long as
- (1) the individual did not attempt to defraud the state;
  - (2) no significant previously undisclosed facts come to light;
  - (3) the application was complete with no relevant questions unanswered; and
  - (4) the only reason the sponsored individual was ineligible was due to the ineligibility of the sponsor.
- (d) The department will withhold payment of a dividend of an individual if the department is holding a valid unpaid prior year assessment against that individual and the individual has not exhausted all appeal rights.
- (e) The department will offset an assessment against a dividend of an individual if the individual has exhausted all appeal rights. A late appeal from an individual does not stay collection.
- (f) A payment on an assessment for a disallowed dividend will be applied first to the unpaid balance of the assessment for the disallowed dividend and next to any accumulated interest. (Eff. 1/1/93, Register 124; am 1/1/2000, Register 152; am 1/1/2002, Register 160)

Authority: AS 43.23.035  
AS 43.23.055  
AS 43.23.065

**15 AAC 23.243. Interest.**

- (a) Dividends held in trust by a public agency in accordance with AS 43.23.015(e) will be invested by the department together with other money under AS 37.10.070. No separate investment accounts for individual applicants will be maintained. Monies held in trust and invested will be paid interest at the average rate earned by all money invested in accordance with AS 37.10.070 from the date the application is approved and processed for payment by the department to the date the claim for payment of the money is filed by or on behalf of the individual on whose behalf the public agency filed.



- (b) Except as provided in (c) of this section, interest accrues on assessments of disallowed dividend payments at the rate established in AS 45.45.010 on the balance of the dividend owing.
- (c) Interest does not accumulate on an assessment of a disallowed dividend if the dividend is repaid within 60 days after the determination of disallowance becomes final. (Eff. 1/1/93, Register 124)

Authority: AS 43.23.015  
AS 43.23.055

**15 AAC 23.253. Disclosure.**

- (a) Except to the extent required under AS 24.20.271, AS 24.55.160 - 24.55.170, AS 43.23.015, and 43.23.017 for the administration of the dividend program, and as provided in this section, information provided regarding an individual's application is confidential. Except as provided in (e) of this section, the department will release information provided regarding an individual's application to that individual or to an authorized representative of the individual.
- (b) The following information is subject to release by the department under the following conditions:
  - (1) to an individual, including a representative of an agency, who has filed an application on behalf of another individual, information regarding the eligibility status of that other individual;
  - (2) to any of two or more competing sponsors of an applicant, information regarding the status of the applicant's eligibility;
  - (3) repealed 1/1/2011;
  - (4) to a process server or plaintiff identified on a writ of execution by case number or court of origin, information related to payments made by the department to the process server or court and the status of a payment due the process server or court;
  - (5) to a financial institution with a specific dividend warrant number, whether a stop payment has been placed on that warrant;

- (6) to a person who makes a written request and pays the fee under 15 AAC 23.263(a), if applicable, the names of applicants in an electronic medium and format specified by the department;
- (7) repealed 1/1/2003;
- (8) repealed 1/1/2003;
- (9) repealed 1/1/2003;
- (10) repealed 1/1/2003;
- (11) repealed 1/1/2003;
- (12) repealed 1/1/2003;
- (13) repealed 1/1/2003;
- (14) repealed 1/1/2003;
- (15) repealed 1/1/2003;
- (16) repealed 1/1/2003;
- (17) repealed 1/1/2003;
- (18) repealed 1/1/2003;
- (19) repealed 1/1/2003;
- (20) repealed 1/1/2003;
- (21) repealed 1/1/2003;
- (22) repealed 1/1/2003;
- (23) repealed 1/1/2003;
- (24) repealed 1/1/2003;
- (25) to the general public, the names of applicants in a format set by the department; information disclosed under this paragraph is available from the department's web site;

- (26) upon written request and approval from the department, to governmental agencies, information for use in administering programs, collecting debts, and for use in official investigations.
- (c) Notwithstanding (b) of this section, the department will only release bank, credit union, or savings and loan account information provided by an individual under 15 AAC 23.223(b)(2) if the department
- (1) receives authorization from the individual to release the information;
  - (2) receives a court order directing the release;
  - (3) receives a request as part of a criminal investigation; or
  - (4) makes use of the information to recover an assessment under 15 AAC 23.233.
- (d) Repealed 1/1/2003.
- (e) A request for information that is denied may be appealed to the director of the department's permanent fund dividend division as provided in 2 AAC 96.335 - 2AAC 96.350.
- (f) If an informant contacts the department with information that might potentially disqualify another individual from receiving a dividend, the informant's name and identity is confidential and will not be disclosed to the extent permitted by law.
- (g) The department will provide a paper list of the information available through (b) (25) of this section, if the person
- (1) makes a written request; and
  - (2) pays the required fee under 15 AAC 23.263, if the request is for more than 500 names.
- (h) If a governmental agency wants disclosure of information other than names available under (b)(26) and (g) of this section, the governmental agency must make a written request and sign a written agreement on a form or in a format prescribed by the department. The agreement must contain
- (1) an acknowledgement by the requestor that the requestor understands that the information is confidential;

- (2) a list of uses that may be made of the information;
  - (3) a statement by the requestor agreeing to
    - (A) use the information only for those items listed in this subsection;
    - (B) ensure each subordinate employee given access to the information is required to sign an acknowledgement containing the provisions of this subsection; and
    - (C) not release the information to other parties; and
    - (D) store the information in a secure place; and
  - (4) an acknowledgment by the requestor that the requestor understands the applicable provisions of AS 11.56.860 or 5 U.S.C. 552a (Privacy Act of 1974) regarding the misuse of confidential information.
- (i) After entering all timely applications into its database, the department will
- (1) create an electronic file containing the
    - (A) name of each individual who has voluntarily indicated on the application form that the individual is a veteran;
    - (B) individual's mailing address;
    - (C) name of the branch of service in which that individual served, and
    - (D) dates of service; and
  - (2) provide the electronic file to the Department of Military and Veterans' Affairs. (Eff. 1/1/93, Register 124; am 10/8/94, Register 131; am 3/30/95, Register 133; am 11/20/96, Register 140; am 4/18/97, Register 142; am 8/22/97, Register 143; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 1/1/2005, Register 172; am 1/1/2007, Register 180; am 1/1/2008, Register 184; am 1/1/2009, Register 188; am 1/1/2010, Register 192; am 1/1/2011, Register 196)

Authority: Art. I, sec. 22, Ak Const.  
AS 43.23.015  
AS 43.23.017

**15 AAC 23.263. Fees and fines.**

- (a) The department will provide information requested under 15 AAC 23.253(b)(6) for a fee of \$25. All payments required under this subsection must be made by check or money order and must be received by the department before the request will be processed.
- (b) The department will deduct from each dividend assigned or attached \$2 for each assignment, attachment, garnishment, or levy not released at the time the dividend is paid.
- (c) If a person requests a paper list of information under 15 AAC 23.253(g), the department will charge the fees in accordance with AS 40.25.100 - 40.25.220 and 2 AAC 96 for the inspection and copying of public records.
- (d) The amount of a civil fine imposed for a violation found under AS 43.23.035(c) will be based on the cost incurred by the department for investigating and processing the violation. Costs incurred by the department may include personal services, travel, and research fees.
- (e) Each application for inclusion on the list of beneficiary organizations to be included within the online permanent fund dividend application must be accompanied by a nonrefundable fee of \$50. A payment required under this subsection must be made by check or money order. (Eff. 10/8/94, Register 131; am 11/20/96, Register 140; am 12/19/96, Register 141; am 4/18/97, Register 142; am 1/1/99, Register 148; am 1/1/2003, Register 164; am 1/1/2005, Register 172; am 1/1/2006, Register 176; am 04/24/2009, Register 190)

Authority: AS 40.25.110

AS 40.25.115

AS 43.23.035

AS 43.23.062

AS 43.23.071

**15 AAC 23.310. Application for beneficiary organization.**

- (a) An educational organization, community foundation, or charitable organization that applies for inclusion on the online permanent fund dividend application list of beneficiary organizations must elect on the organization's

application form whether it is to be considered to be providing aid or services statewide or in one or more geographic regions of the state. If an organization does not make an election, the department will consider the organization to be providing aid or services in the geographic region where the main office of the organization is located. The organization must provide a physical address for the place of business in each geographic region before the organization will be listed as providing aid or services in the geographic region.

- (b) For the purposes of the random order requirements of AS 43.23.062(b), the department will establish separate contribution lists on the online permanent fund dividend application form for beneficiary organizations operating statewide and for beneficiary organizations operating only in one or more geographic regions of the state. As part of the online application, the department will provide a search tool to allow selection of a specific beneficiary organization.
- (c) For the purposes of AS 43.23.062(d)(1), the department will consider an educational organization, community foundation, or charitable organization to have filed an application only if that application is complete and timely. For the purposes of this subsection, an application is
  - (1) timely if it is postmarked on or before June 14 of the qualifying year; and
  - (2) complete if, when considered along with documents submitted with an application that established eligibility for a prior dividend year, it contains all the information required for the department to make the determinations required by AS 43.23.062(d)(2) – (9), including copies of documents necessary to determine eligibility.
- (d) For the purposes of AS 43.23.062(d)(2) and (3), the department will verify the tax-exempt status of an educational organization, community foundation, or charitable organization when the organization provides a copy of the
  - (1) tax-exempt determination letter issued by the Internal Revenue Service;
  - (2) organization's articles of incorporation; and
  - (3) organization's bylaws.

- (e) For the department to verify compliance with AS 43.23.062(d)(4), an educational organization, community foundation, or charitable organization must provide a copy of its current Internal Revenue Service Form 990 on file with the Internal Revenue Service for the fiscal year that ended immediately before May 15 of the qualifying year. If a filing extension has been submitted for that fiscal year, the organization's application must contain a copy of the request for extension and a copy of the Internal Revenue Service Form 990 for the next most recently completed fiscal year.
- (f) For the department to verify compliance with AS 43.23.062(d)(5), an educational organization, community foundation, or charitable organization must certify in its application that members of its board of directors or local advisory board who are holding office during the qualifying year are residents of the state who serve without monetary compensation. To establish the residency status of a director or board member, the organization must include in the application a list of the physical residence addresses of all directors or board members.
- (g) For the department to verify compliance with AS 43.23.062(d)(6), an educational organization, community foundation, or charitable organization must certify in the application that it provided aid or services in the state during the two calendar years that immediately precede the year the application is filed, and an organization other than a community foundation must declare in the application the charitable purpose for which it provides aid or services in the state. In addition to considering the certification and any declaration required by this subsection, the department will consider the date the Internal Revenue Service granted the organization tax-exempt status.
- (h) To determine compliance with AS 43.23.062(d)(7), the department will review information that an educational organization, community foundation, or charitable organization provides with respect to required minimum contributions in part III of the Internal Revenue Service Form 990 submitted under (e) of this section.
- (i) For the purposes of AS 43.23.062(d)(8), an educational organization, community foundation, or charitable organization must provide in its application either
  - (1) a copy of the audited financial statement, including the auditor's opinion letter, covering the fiscal year for the Internal Revenue Service Form 990 submitted under (e) of this section; or

- (2) a certification that the organization's budget for that period was \$250,000 or less.
- (j) For the purposes of determining whether an educational organization, community foundation, or charitable organization is eligible to become a beneficiary organization, the organization must include along with its application a certificate of compliance from the division of corporations, business, and professional licensing in the Department of Commerce, Community and Economic Development covering the qualifying year.
- (k) For the purposes of determining whether an educational organization, community foundation or charitable organization is eligible to become a beneficiary organization, the applicant must certify that the organization has registered with the Department of Law as a charitable organization eligible to solicit contributions of money, if registration is required by AS 45.68.010. (Eff. 01/01/2009, Register 188)

Authority: AS 43.23.062

**15 AAC 23.320. Withdrawal of contribution.**

An individual may withdraw an election to contribute to a beneficiary organization made on the online application only as provided in this section. Notice of withdrawal of the election to contribute to a beneficiary organization, to be effective, must be received by the department in writing on or before August 31 of the dividend year. (Eff. 01/01/2009, Register 188)

Authority AS 43.23.062

**15 AAC 23.330. Authorized notification of contributions.**

- (a) The department will provide a place on the online application form where an individual filing for a permanent fund dividend may authorize a limited release of information gathered in the form to the beneficiary organizations selected to receive a contribution from the individual's dividend. On the online application form, the department will include a question asking whether an individual consents to a release of the name and mailing address of the individual making the contribution to the beneficiary organization and the amount of the contribution. The release of information will be permitted to allow the beneficiary organization to acknowledge the contribution and to explain how the contribution will be expended. On the online application form, the department will include a disclosure that a beneficiary organization receiving information released under this section is not required to keep the information confidential.



- (b) On the online application form, the department will include a means by which the individual may answer “yes” or “no” to the authorization question. Failure to answer the authorization question will be considered to be a refusal of authorization to release information, other than information specifically authorized for release by law.
- (c) A parent or legal guardian may consent to the release of information authorized in this section on behalf of a minor child. A person authorized by 15 AAC 23.123 to file for a dividend on behalf of an adult may consent to the release of information authorized in this section on behalf of the adult. (Eff. 01/01/2009, Register 188)

Authority: AS 43.23.017  
AS 43.23.062

**15 AAC 23.340. Contribution list appeals.**

- (a) No later than August 1 of the qualifying year, the department will issue written notice of the department’s decision relating to an application of an educational organization, community foundation, or charitable organization to appear in the contribution list of beneficiary organizations authorized by AS 43.23.062 as a part of the online permanent fund dividend application form. The department will send the decision by electronic mail or facsimile transmission to the organization. To appeal from that decision, the organization must submit its appeal in writing, and the department must receive the appeal within 15 days after the date of the notice of the department’s decision. The organization’s authorized representative must sign the appeal.
- (b) The appeal must contain a complete explanation for the basis of the appeal, including a detailed statement of the factual and legal basis of the issues, copies of the documents on which the appellant intends to rely, and a statement of the remedy requested. The appeal must provide the address of the organization or the organization’s representative to whom any notice or decision concerning the appeal is to be mailed or delivered. The appeal must indicate whether an evidentiary hearing is requested. If an evidentiary hearing is requested, the appeal must include a statement of the facts alleged to be in dispute.
- (c) In accordance with AS 44.64.060, the department will refer an appeal for which an administrative hearing is requested to the Office of Administrative Hearings. The department will request a fast-track hearing under 2 AAC 64.210 and expedited proceedings for proposals for action under AS 44.64.060(e) so that a proposed decision will be ready for final action by the

department within 45 days after receiving the appeal, or by October 1 of the qualifying year, whichever is earlier.

- (d) The decision on the appeal is a final administrative decision of the department that may be appealed to the superior court under the Alaska Rules of Appellate Procedure. (Eff. 1/1/2009, Register 188)

Authority: AS 43.23.060  
AS 43.23.062

### **15 AAC 23.350. Payment of contributions.**

- (a) The department will directly deposit contributions made to beneficiary organizations into the financial institution account of the agent organization. At the same time that it issues electronic deposits to individuals applying for the permanent fund dividend each year, the department will electronically deposit the contributions made to all eligible beneficiary organizations receiving contributions.
- (b) The department will prepare a report for the agent organization that sets out for each beneficiary organization the amount contributed, the applicant locator number assigned by the department to each individual making a contribution to the beneficiary organization, and the information, if any, authorized to be released by that individual.
- (c) If a dividend remains unpaid for any reason after December 31 of the dividend year, contributions elected with the application for the dividend expire December 31 of the year for which the contribution is associated. (Eff. 1/1/2009, Register 188; am 1/1/2011, Register 196)

Authority: AS 43.23.062

### **15 AAC 23.993. Definitions.**

- (a) In this chapter, unless otherwise indicated,
- (1) "abode" means one's home or place of dwelling;
  - (2) "adult" means an individual who has reached 18 years of age, which is the age of majority under AS 25.20.010, or who is under 18 years of age but because of marriage has reached the age of majority under AS 25.20.020;

- (3) "authorized representative" means an adult who has a sufficiently significant relationship with a child or another adult that the department is satisfied that the person is applying for the dividend payment for the benefit of the child or the adult; "authorized representative" includes an official of a public agency or a private institution;
- (4) "child" means an individual who has not reached the age of majority under AS 25.20.010 or 25.20.020;
- (5) "department" means the Department of Revenue;
- (6) "dividend" means a permanent fund dividend;
- (7) "dividend year" means the calendar year in which the dividend is declared;
- (8) "emancipated minor" means an individual under the age of 18 years who has been declared emancipated by the superior court of this state under AS 09.55.590, or by a court of another jurisdiction under procedures granting the individual the equivalent status;
- (9) "legal guardian" means a guardian or conservator appointed by the court under AS 13.26.035, 13.26.045, 13.26.095, 13.26.112, 13.26.116, 13.26.210, or similar provisions of law of Alaska or another jurisdiction;
- (10) "month" means a calendar month;
- (11) "qualifying year" means the calendar year immediately preceding the dividend year;
- (12) "resident" means a state resident as defined by AS 43.23.095(7);
- (13) repealed 1/1/99;
- (14) "serving as an employee of the state of Alaska" means active compensated employment in the executive, legislative, or judicial branch of state government or the University of Alaska; the phrase does not include employment by a political subdivision of the state of Alaska;

- (15) "incarcerated" means confined in a facility or setting under a court order for a conviction to restrain an individual's movement and freedom, including a prison, jail, other penal institution, half-way house, hospital, medical facility, treatment facility, or a furlough to a non-penal setting monitored by an electronic device for the purpose of monitoring the individual's movements;
- (16) "financial institution" means a bank, savings bank, savings and loan association, credit union, securities broker-dealer, or other institution determined by the department to be an eligible depository;
- (17) "process" means the procedure of collecting information and documents in order to ensure that an application is complete and upon which a non-discretionary decision to pay or deny can be based according to statutory criteria;
- (18) "review" means the procedure subsequent to processing in which an otherwise complete application is required to undergo further inquiry and examination to determine whether an applicant, in fact, meets all applicable eligibility criteria;
- (19) "life-threatening" means any condition that the attending physician indicates in writing is life-threatening in the physician's opinion;
- (20) "sibling" means one of two or more individuals having at least one parent in common, and includes step-relationships;
- (21) "terminally ill" means any condition that the attending physician indicates in writing is a terminally ill condition in the physician's opinion;
- (22) "personal information" has the meaning given that term in AS 44.99.350;
- (23) "governmental agencies" means entities of the
  - (A) federal government; or
  - (B) state or of a political subdivision of the state, including
    - (i) an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality,

a school district, and other governmental units of the state or a political subdivision of the state; and

- (ii) entities of the court system or the legislative branch of state government;
- (24) “postmarked” means that an official cancellation stamp has been placed by the United States Postal Service, or the postal service of a foreign country, that records the date and place of mailing.
  - (25) “signed” means either to sign by hand or by using an electronic signature function;
  - (26) “in writing” means on paper or electronically.
  - (27) "agent organization" means the entity that the department selects under AS 43.23.062(g) to implement and operate the contribution program for beneficiary organizations;
  - (28) “beneficiary organization" means
    - (A) each campus of the University of Alaska;
    - (B) each other educational organization, community foundation, or charitable organization that the department determines to be eligible under AS 43.23.062(c) and (d) to receive a contribution deducted from a dividend payable to an individual;
  - (29) "educational organization" does not include the campuses of the University of Alaska.
- (b) For the purposes of AS 43.23.005(a) and this chapter, "date of application" means the date on which an application for a dividend is
    - (1) timely filed under 15 AAC 23.103(a); or
    - (2) timely delivered under 15 AAC 23.103(g).
  - (c) For the purposes of AS 43.23.008(a), "disabled dependent" means an individual who is claimed as a dependent for Internal Revenue Service purposes by an eligible resident, and whose physical or mental impairment prevents the individual from living independently, if a written statement to

that effect is submitted to the department by a licensed physician or medical practitioner.

- (d) For the purposes of AS 43.23.015(b), “furnish an application form” means to provide the prescribed application form
- (1) on the department’s website;
  - (2) by mail to an individual who requests it; and
  - (3) at public locations to be described on the department’s website.
- (e) In AS 43.23.062(b) and this chapter, "geographic region" means one of the four judicial districts described in AS 22.10.010 for the superior court of the state. (Eff. 1/1/93, Register 124; am 12/24/93, Register 128; am 10/8/94, Register 131; am 8/24/95, Register 135; em am 11/20/96 - 3/19/97, Register 140; am 4/18/97, Register 142; am 1/1/99, Register 148; am 1/1/2000, Register 152; am 1/1/2003, Register 164; am 1/1/2005, Register 172; am 1/1/2007, Register 180; am 1/1/2008, Register 184; am 1/1/2009, Register 188; am 04/24/2009, Register 190)

Authority: AS 43.23.015  
AS 43.23.055  
AS 43.23.062  
AS 43.23.095

**Chapter 05. Administration of Revenue Laws**  
**Article 1. Hearing Procedures**

**15 AAC 05.001. Application of 15 AAC 05.001 - 15 AAC 05.050.**

The provisions of 15 AAC 05.001 - 15 AAC 05.050 govern the procedures for all hearings related to

- (2) permanent fund dividend matters under AS 43.23.005 - 43.23.095 and under sec. 19, ch. 102, SLA 1982, unless 15 AAC 05.001 – 15 AAC 05.050 are inconsistent with the procedural provisions of 2 AAC 64 or 15 AAC 23; the provisions of 15 AAC 05.011 – 15 AAC 05.050 do not apply to an appeal that is subject to AS 43.23.062(i) and 15 AAC 23.340; and (Eff. 12/26/80, Register 76; am 7/1/82, Register 83; am 5/12/83, Register 86; am 4/21/88, Register 106; am 10/1/98, Register 147; 1/01/2009, Register 188)

Authority: AS 25.27.020

AS 43.05.010

AS 43.05.080

AS 43.23.015

AS 43.55.080

AS 43.56.110

**15 AAC 05.010. Request for appeal.**

- (a) An appeal is initiated by filing a request for appeal. For the purpose of this section, “request for appeal” includes a request for a formal hearing under... A request for appeal filed under this section must
- (1) state the department action to which the person objects and the relief sought;
  - (2) state the grounds for the objection, including a brief summary of the facts at issue, the legal authority, and, if appropriate, any generally accepted accounting principles that support the request for appeal;
  - (3) be signed by.....
- (B) in the case of an appeal of a permanent fund dividend denial or assessment, by the adult applicant or the adult sponsor or authorized representative of the applicant;...

- (b) In order to be timely filed, a request for appeal must conform to the following requirements, as applicable;...
- (5) If the request for appeal concerns a permanent fund dividend matter under AS 43.23, the request must be filed with the permanent fund dividend division within 30 days after the date of the notice of assessment or disallowance, unless the individual demonstrates a reasonable cause for the failure to file within this period; a request for appeal must be accompanied by a \$25 appeal fee, if applicable; the appeal fee must be in the form of a check or money order; if the request is mailed, it must be addressed in accordance with the appeal form provided by the department.
- (c) A request for appeal is filed on the date it is personally delivered, or, if delivered to the department by United States mail, the date of the United States postmark or official postmark of a foreign country stamped on the properly addressed cover in which the request is mailed. If the postmark is not the official postmark of a foreign country or the United States Postal Service, such as that made by a private postage or mailing machine, the postmark date will be the filing date only to the extent provided for by the United States Treasury in 26 C.F.R. 301.7502-1(c)(1)(iii)(b). If the due date falls on a Saturday, Sunday, or holiday, the due date is the next working day. A current mailing address must be provided to the department with the request for appeal, and any change in mailing address after the request for appeal is filed must be reported to the department immediately. If the department mails a document by registered or certified mail, service is effective if the mailing is addressed to the latest address provided to the department.
- (d) At an informal conference and at a formal hearing, a person may be represented by an attorney, by a certified public accountant, or by another representative. A representative, other than an attorney, must file a completed power of attorney at the time the representative enters an appearance in the proceeding.
- (e) A person or a representative may review the records on file with the department that are relevant to that person's request for appeal. A review under this subsection may be conducted at the offices of the department during regular working hours. Copies of the records on file will be furnished upon receipt of the applicable copying fee.
- (h) Notwithstanding the provisions of 15 AAC 05.001 - 15 AAC 05.050, to appeal a denial of a permanent fund dividend, including a related assessment, an individual must first request an informal conference and the department



must issue a decision under 15 AAC 05.020 before the individual may request a formal hearing. (Eff. 1/12/64, Register 12; am 5/31/78, Register 66; am 12/26/80, Register 76; am 4/21/88, Register 106; am 1/1/93, Register 124; am 12/24/93, Register 128; em am 11/20/96 - 3/19/97, Register 140; am 4/18/97, Register 142; am 10/1/98, Register 147; am 1/1/2003, Register 164; am 1/1/2006, Register 176; am 1/1/2010, Register 192)

Authority: AS 25.27.020  
AS 43.05.010  
AS 43.05.080  
AS 43.05.240  
AS 43.23.015  
AS 43.23.055  
AS 43.55.110  
AS 43.56.200

### **15 AAC 05.020. Informal conferences.**

- (a) Upon receipt of a written request for appeal under 15 AAC 05.010 requesting an informal conference, an appeals officer will promptly schedule the informal conference. If the appeal concerns a permanent fund dividend denial, the request must be accompanied by the \$25 appeal fee required by AS 43.23.015(g), except that the appeal fee is waived for an appeal brought by an agency of the state on behalf of an individual; an individual who meets the indigency waiver standard in AS 43.23.015(i) may apply for a waiver of the appeal fee on a form prescribed and furnished by the department. The informal conference will be conducted in person, through correspondence, or by telephone, audio, or video teleconference, or other electronic means. The appeals officer shall make available to the person who filed the request for appeal the relevant portion of that person's file, and shall explain at the informal conference the action taken by the department. A person who wants to present facts and information in support of its position must bring all pertinent books, records, schedules, and other documents to the conference. The appeals officer may copy any of the books, records, schedules, and other documents brought to the conference or otherwise made available to the appeals officer. The person who filed the request shall supply additional information that the appeals officer considers necessary.
- (b) After considering the facts, information, and arguments presented at the informal conference, the appeals officer shall promptly render a written decision. The decision must identify the issues in controversy for purposes of further appeal. If the appeals officer believes that modification of the department's action is appropriate, modification must be made and reflected in the written decision.

- (c) The decision of the appeals officer is final for purposes of appeal to a formal hearing under 15 AAC 05.030 but is not a final administrative determination for purposes of appeal to the superior court. (Eff. 5/31/78, Register 66; am 12/26/80, Register 76; am 4/21/88, Register 106; em am 11/20/96 - 3/19/97, Register 140; am 4/18/97, Register 142; am 10/1/98, Register 147)

Authority: AS 25.27.020

AS 43.05.010

AS 43.05.080

AS 43.05.240

AS 43.23.015

AS 43.23.055

AS 43.55.110

AS 43.56.200

### **15 AAC 05.030. Formal hearings.**

- (a) The department will hold a formal hearing if a request for a formal hearing conforming to the requirements of 15 AAC 05.010(a) is filed. If a request for a formal hearing follows an informal conference, it must be filed within 30 days after the date the informal conference decision is issued, and must be filed in accordance with the appeal form provided by the department.
- (b) On receipt of a request for appeal requesting a formal hearing, the commissioner will appoint a hearing officer. The department will notify the person who filed the request of the appointment. Within 60 days after receipt of the request for formal hearing, the hearing officer will notify the applicant of the date of either a prehearing conference or the hearing... The hearing officer may
- (1) administer oaths and affirmations;
  - (2) issue subpoenas;
  - (3) order discovery by the parties and issue protective orders;
  - (4) receive relevant evidence;
  - (5) regulate the course of the hearing, including granting and denying continuances;
  - (6) hold prehearing conferences;
  - (7) dispose of procedural requests or similar matters; and

- (8) exercise all other powers necessary for the orderly and expeditious conduct of the hearing.
- (c) A party requesting the disqualification of a hearing officer must file a motion and a supporting affidavit within 10 days after the date of notice that the hearing officer was assigned to the appeal. The moving party has the burden of establishing that the hearing officer is personally prejudiced and would be incapable of according the party an impartial hearing or consideration of the appeal. No responsive briefing is allowed. The hearing officer shall rule on the motion after reviewing the affidavit. The ruling must be in writing and will become a part of the record. A party aggrieved by the determination of the hearing officer may file a motion for reconsideration of the ruling with the commissioner within 10 days after the ruling by the hearing officer. The commissioner will issue an order in writing either affirming or overruling the ruling of the hearing officer.
- (d) A hearing officer may not communicate with a party, directly or indirectly, regarding a case unless notice and opportunity to participate is given to all parties. A hearing officer may communicate with a party without notice and opportunity for all other parties to participate if the communication involves a procedural matter and the other parties have verbally or in writing waived notice and participation. A verbal waiver may be communicated directly to the hearing officer or through an opposing party. A party conveying a waiver of another party to the hearing officer must first declare that the subject matter of the communication was discussed with the other party and the other party expressly authorized the communication. A hearing officer who receives an ex parte communication in violation of this subsection may be disqualified if necessary to eliminate the effect of the communication.
- (e) The hearing officer may order the parties to participate in a prehearing conference. The hearing officer shall set the time and place of the conference. The prehearing conference may be conducted by telephone, audio or video teleconference, or other electronic means. At the conference, the hearing officer shall determine matters promoting the orderly and prompt conduct of the hearing, including preparation of stipulations, simplification of issues, identity and limitation of the number of witnesses, objections to evidence, order of presentation of evidence and cross-examination, exchange of exhibits, issuance of subpoenas, discovery orders and protective orders, briefing schedules, the extent to which evidence will be presented in written form, and the substitution of telephone, teleconference, or other electronic means for proceedings in person. The hearing officer may issue a prehearing order incorporating the matters determined at the conference. If a prehearing

conference is not held, the hearing officer may issue a prehearing order to regulate the conduct of the proceedings.

- (f) The hearing officer may give the parties the opportunity, at appropriate stages of the proceedings, to file motions and objections, briefs, and proposed findings of fact, conclusions of law and orders. A party shall serve copies of any filed item on all parties, personally delivered or deposited in the United States mail with first class postage prepaid. A motion to dismiss, motion for summary judgment, or other dispositive motion must be filed at least 15 days before the date scheduled for hearing, unless good cause is shown for filing the motion after that time. An opposition to a dispositive motion must be filed within 10 days after receipt of the motion by the opposing party, unless otherwise ordered by the hearing officer. The hearing officer may, at the request of a party, or on the hearing officer's own motion, issue a subpoena. A subpoena issued under this section must be served in accordance with the Alaska Rules of Civil Procedure or by a person designated by the hearing officer.
- (g) The hearing officer shall set the time and place of the hearing and shall give reasonable notice to the parties. A request to change the time and place set for the hearing must be made at least 7 days before the date scheduled for hearing, unless good cause is shown. The hearing officer may conduct all or part of the hearing by telephone, audio or video teleconference, or other electronic means. With the consent of the parties the hearing may be conducted through correspondence. The hearing must be recorded by the hearing officer or by a person designated by the hearing officer. The parties may obtain, at cost, a copy of the recording or, if the department hires a reporter, a transcript. If the hearing officer records the hearing by tape recording and a reporter is not hired, a party may, at the party's expense, hire a reporter approved by the department to prepare a transcript from the department's recording or to record and transcribe the hearing. If the party's reporter prepares a transcript, a copy must be provided to the department at the usual cost for a copy of a transcript.
- (h) A hearing is not conducted according to technical rules of evidence. Relevant evidence must be admitted if it is probative of material facts. Irrelevant and unduly repetitious evidence must be excluded. Hearsay evidence is admissible if in the judgment of the hearing officer it is the kind of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Oral evidence may be taken only on oath or affirmation. Each party may call and examine witnesses, introduce and object to exhibits, cross-examine opposing witnesses, impeach a witness, and offer rebuttal evidence.

At the hearing, the person requesting the hearing has the burden of proving that the action by the department to which that person objects is incorrect.

- (i) The hearing officer may allow the parties a designated time after conclusion of the hearing for the submission of additional evidence, briefs, or proposed findings, with opportunity for objection by the opposing parties. The hearing officer shall issue a written decision containing the hearing officer's findings of fact and conclusions of law within six months after the record is closed... Upon adoption by the commissioner, the commissioner's designee, or the senior hearing officer on behalf of the commissioner, the written decision shall be mailed to the parties and is the final administrative decision of the department for purposes of appeal to the superior court under 15 AAC 05.040, unless a motion for reconsideration is filed under 15 AAC 05.035.
- (j) If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless the person, within 10 days after the date scheduled for hearing, shows reasonable cause for failure to appear.
- (k) The hearing officer may waive any requirement or deadline established in 15 AAC 05.010 - 15 AAC 05.030 if it appears to the officer that strict adherence to the deadline or requirement would work an injustice; however, the hearing officer may not waive the provision in (b) of this section applying to the scheduling of a hearing or a prehearing conference, or the provision in (i) of this section requiring that a hearing decision be adopted within six months after the close of the hearing. If a written decision is not issued within six months after the record is closed, the commissioner will, within 30 days after the expiration of the six-month period, notify the parties of the reason for the delay. (Eff. 5/31/78, Register 66; am 12/26/80, Register 76; am 4/21/88, Register 106; am 4/1/89, Register 109; am 10/1/98, Register 147)

Authority: AS 25.27.020

AS 25.27.180

AS 43.05.010

AS 43.05.040

AS 43.05.080

AS 43.05.240

AS 43.23.015

AS 43.55.110

AS 43.56.200

**15 AAC 05.035. Motion for reconsideration.**

- (a) A party to a formal hearing may, within 10 days after the decision of the hearing officer is mailed to the party, file with the commissioner a written motion for reconsideration of that decision. The motion must state specific grounds for relief and, if mailed, be addressed: Commissioner's Office Appeals (Reconsideration), Alaska Department of Revenue, P.O. Box 110400, Juneau, Alaska 99811-0400.
- (b) Within 20 days after receipt of a motion for reconsideration, the commissioner will issue an order in writing either granting or denying the motion.
- (c) If the commissioner grants a motion for reconsideration, the decision will be reconsidered and any modifications to it made as promptly as possible. If appropriate, the commissioner will authorize the submission of further briefs, order the hearing reopened to receive further evidence or provide for other suitable procedures for reconsideration of the decision. After a decision has been reconsidered, the commissioner will readopt the decision with any appropriate modifications. Upon readoption, the decision is the final administrative decision of the department for purposes of appeal to the superior court under 15 AAC 05.040.
- (d) If the commissioner denies a motion for reconsideration, the hearing officer's decision becomes the final administrative decision of the department for purposes of appeal to the superior court under 15 AAC 05.040 as of the date of the commissioner's written order denying the motion. (Eff. 12/26/80, Register 76; am 4/21/88, Register 106; am 1/1/93, Register 124; am 10/1/98, Register 147)

Authority: AS 25.27.020  
AS 43.05.010  
AS 43.05.080  
AS 43.05.240  
AS 43.23.015  
AS 43.55.110  
AS 43.56.200

**15 AAC 05.040. Appeal of final decision of department.**

- (a) A person who disagrees with and wishes to appeal the final administrative decision of the department must within 30 days after the date the decision is mailed to the party, file an appeal with the superior court. In tax and licensee fee matters under AS 43, any taxes, license fees, penalties, and interest

declared in the final administrative decision to be due must be paid within 30 days after the date of the decision, or a bond must be filed with the court in accordance with the Alaska Rules of Appellate Procedure. (Eff. 5/31/78, Register 66; am 12/26/80, Register 76; am 4/21/88, Register 106; am 10/1/98, Register 147)

Authority: AS 25.27.020  
AS 43.05.010  
AS 43.05.080  
AS 43.05.240  
AS 43.23.015  
AS 43.55.110  
AS 43.56.200

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# **ALASKA PERMANENT FUND DIVIDEND PROGRAM**

**Sean Parnell**  
Governor of Alaska

**Bryan Butcher**  
Commissioner of Revenue

**Deborah Bitney**  
Permanent Fund Dividend Division Director

## **IMPORTANT NOTICE**

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