



THE STATE
of **ALASKA**
STATE LEGISLATURE

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House Joint Resolution 38 – Sponsor Statement

HJR 38 is an important step by the Alaska Legislature to comment on the unconstitutional annexation of private property rights from potentially hundreds of Alaskans, as well as the claim by the Alaska Railroad Corporation (ARC) to “exclusive use” of its entire right-of-way.

Pursuant to the 1914 Alaska Railroad Act, the Alaska Railroad was built and operated by the federal government until 1982, when ownership of the Railroad was transferred to the state under the Alaska Railroad Transfer Act (ARTA).

Under the plain language of ARTA, the state was granted the rights, titles, and interests in “rail properties” which were owned by the United States at the time of transfer. These rail properties primarily consisted of buildings, equipment, lands, and “interests” in lands owned by others, including the railroad right-of-way reserved in hundreds of federal land patents found along the rail belt from Seward to Fairbanks.

Also, under ARTA, an “exclusive-use easement” was granted in the railroad right-of-way through the federally-owned Denali National Park, as well as through federally-owned lands which were subject to unresolved Native land claims at the time of passage. An “exclusive-use easement” could be granted in these two situations because the federal government owned the land outright. Only property owned by the United States at the time of transfer was or could be granted to the state under ARTA.

HJR 38 expresses the strong view of the Alaska Legislature that property interests transferred to the state by the federal government which were, in fact, owned by other parties at the time of transfer, are contrary to law; further, that ARC violated state law by receiving property interests from the U.S. Department of the Interior without the legislative approval required under AS 42.40.285, and without notice to affected landowners, and that such interests in land should be duly disclaimed as a matter of law.

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