

**HOUSE BILL NO. 154**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KOHRING, Rokeberg, Kott

Introduced: 2/3/95

Referred: Community and Regional Affairs, Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act requiring the Department of Law to provide guidelines regarding  
2 unconstitutional state and municipal takings of private real property; relating to  
3 the taxation of private real property taken unconstitutionally by state or municipal  
4 action; establishing a time limit for bringing an action for an unconstitutional  
5 state or municipal taking of private real property; and providing for an effective  
6 date."

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

8 \* Section 1. AS 09.10.030 is amended to read:

9 Sec. 09.10.030. ACTIONS TO RECOVER REAL PROPERTY IN 10 YEARS.

10 Except as otherwise provided under AS 09.57.020, a [A] person may not bring an  
11 action for the recovery of real property [,] or for the recovery of the possession of it  
12 unless the action is commenced within 10 years. An action may not be maintained for  
13 the recovery unless it appears that the plaintiff, an ancestor, a predecessor, or the

1 grantor of the plaintiff was seized or possessed of the premises in question within 10  
2 years before the commencement of the action.

3 \* **Sec. 2.** AS 09.10.070 is amended to read:

4 Sec. 09.10.070. ACTIONS FOR TORTS AND CERTAIN STATUTORY  
5 LIABILITIES TO BE BROUGHT IN TWO YEARS. **Except as otherwise provided**  
6 **by AS 09.57.020, a** [A] person may not bring an action (1) for libel, slander, assault,  
7 battery, seduction, false imprisonment, or for any injury to the person or rights of  
8 another not arising on contract and not specifically provided otherwise; (2) upon a  
9 statute for a forfeiture or penalty to the state; or (3) upon a liability created by statute,  
10 other than a penalty or forfeiture; unless the action is commenced within two years.

11 \* **Sec. 3.** AS 09 is amended by adding a new chapter to read:

12 CHAPTER 57. GOVERNMENT TAKINGS.

13 Sec. 09.57.010. GOVERNMENT TAKINGS GUIDELINES. The Department  
14 of Law shall develop and submit guidelines to the lieutenant governor each year for  
15 publication in the Alaska Administrative Code to assist state agencies, municipalities,  
16 and the public to identify and evaluate government action that may result in an  
17 unconstitutional taking of private real property. The guidelines must be based on  
18 current law as articulated by the United States Supreme Court and the state supreme  
19 court. The guidelines may not be construed to enlarge or reduce the scope of private  
20 property protection provided by the state or federal constitution.

21 Sec. 09.57.020. TIME FOR BRINGING ACTION. A person may not  
22 commence a civil action for an unconstitutional taking of the person's private real  
23 property by government action unless the action is commenced within five years after  
24 the cause of action has accrued.

25 Sec. 09.57.030. ADJUSTMENT OF VALUE FOR PROPERTY TAX. If a  
26 court determines that there has been an unconstitutional taking of private real property  
27 by government action, and if the taking reduces the value of the property, a  
28 municipality that levies a property tax on the property shall take the reduction in value  
29 into consideration when valuing the property for the property tax.

30 Sec. 09.57.090. DEFINITIONS. In this chapter,

31 (1) "government action" means action by the state government or by

1 a municipality, but does not include

2 (A) the formal exercise of the power of eminent domain;

3 (B) seizure of private property by law enforcement agencies as  
4 evidence of a crime for violations of law or forfeiture ordered by a court;

5 (C) orders issued by a state agency, an agency of a  
6 municipality, or a court that result from a violation of law and that are  
7 authorized by law; or

8 (D) the discontinuation of state government programs or the  
9 government programs of a municipality;

10 (2) "private real property" means real property that is not owned by the  
11 state, a municipality, or the federal government, and includes an interest in real  
12 property and improvements to real property;

13 (3) "unconstitutional taking" means the taking of private property by  
14 government action if adequate compensation is not paid to the owner and if  
15 compensation to the owner of the property is required by

16 (A) the fifth or fourteenth amendment to the federal  
17 constitution; or

18 (B) art. 1, sec. 18, of the state constitution.

19 \* **Sec. 4.** AS 29.45.110 is amended by adding a new subsection to read:

20 (d) When assessing the full and true value of property, the assessor shall  
21 comply with AS 09.57.030.

22 \* **Sec. 5.** AS 44.62.130(a) is amended to read:

23 (a) The lieutenant governor shall provide for the continuing compilation,  
24 codification, and publication, with periodic supplements, **of the guidelines developed**  
25 **by the Department of Law under AS 09.57.010 and** of all regulations filed by the  
26 lieutenant governor's office, or of appropriate references to any regulations the printing  
27 of which the lieutenant governor finds to be impractical, such as detailed schedules or  
28 forms otherwise available to the public, or **that** [WHICH] are of limited or particular  
29 application. The publication of **the guidelines and the** compiled regulations is the  
30 Alaska Administrative Code. The periodic supplements to it are the Alaska  
31 Administrative Register. The code and register must contain appropriate annotations

**1** to judicial decisions and opinions of the attorney general.

**2** \* **Sec. 6.** This Act takes effect July 1, 1995.