

SENATE BILL NO. 190

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATOR MACKIE

Introduced: 4/29/97

Referred: CRA, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to eminent domain and to negotiations to purchase property
2 before it is taken through eminent domain; and providing for an effective date."

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

4 * **Section 1.** AS 09.55.270 is amended to read:

5 **Sec. 09.55.270. Prerequisites.** Before property can be taken, it shall appear
6 that

7 (1) the use to which it is to be applied is a use authorized by law;

8 (2) the taking **and the interest to be taken** is necessary to the use;

9 (3) if already appropriated to a public use, the public use to which it
10 is to be applied is a more necessary public use; **and**

11 **(4) except when negotiation is not possible because of the**
12 **incapacity, inability to convey legal title, or absence of one or more of the**
13 **property's owners, a reasonable and diligent effort to acquire the property by**
14 **purchase has been made.**

1 * **Sec. 2.** AS 09.55.430 is amended to read:

2 **Sec. 09.55.430. Contents of declaration of taking.** The declaration of taking
3 must contain

4 (1) a statement of the authority under which the property or an interest
5 in it is taken;

6 (2) a statement of the public use for which the property or an interest
7 in it is taken;

8 (3) a description of the property sufficient for the identification of it;

9 (4) a statement of the estate or interest in the property;

10 (5) a map or plat showing the location of the property;

11 (6) a statement of the amount of money estimated by the plaintiff to
12 be just compensation for the property or the interest in it;

13 (7) a statement that the property **or interest in the property** is taken
14 by necessity for a project located in a manner that is most compatible with the greatest
15 public good and the least private injury; **and**

16 **(8) a statement that a reasonable and diligent effort to acquire the**
17 **property by purchase has been made or that negotiation is not possible because**
18 **of the incapacity, inability to convey legal title, or absence of one or more of the**
19 **property's owners.**

20 * **Sec. 3.** AS 09.55.460(b) is amended to read:

21 (b) The plaintiff may not be divested of a title or possession acquired except
22 where the court finds that

23 **(1) the property or interest in the property** was not taken by necessity
24 for a public use or purpose in a manner compatible with the greatest public good and
25 the least private injury; **or**

26 **(2) a reasonable and diligent effort to acquire the property by**
27 **purchase has not been made and negotiation was not made impossible by the**
28 **incapacity, inability to convey legal title, or absence of one or more of the**
29 **property's owners.**

30 **(c) In the event of a finding under (b) of this section** [THAT FINDING], the
31 court shall enter the judgment necessary to (1) compensate the persons entitled to it

1 for the period during which the property was in the possession of the plaintiff, (2)
2 recover for the plaintiff any award paid to any person, and (3) order the plaintiff to
3 restore the property to the condition in which it existed at the time of the filing of the
4 declaration of taking unless such restoration is impossible, in which case the court
5 shall award damages to the proper persons as compensation for any diminution in the
6 value of the property caused by the plaintiff's wrongful possession.

7 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).