

**HOUSE CS FOR CS FOR SENATE BILL NO. 278(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/6/02

Referred: Finance

Sponsor(s): SENATORS TORGERSON, Taylor, Wilken

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act requiring a good faith effort to purchase property before that property is taken  
2 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 is necessary to the use;

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

11 **(4) except where the consent of a property owner cannot be**  
12 **obtained due to incapacity, inability to convey legal title, or absence, the**  
13 **condemnor has made a reasonable and diligent effort to acquire the property by**  
14 **negotiation as provided in (b) and (c) of this section.**

1 \* **Sec. 2.** AS 09.55.270 is amended by adding new subsections to read:

2 (b) Before taking property estimated by the condemnor to be worth \$15,000 or  
3 more, a condemnor shall invite the property owner, within a reasonable period of time  
4 set by the condemnor, to obtain an appraisal from a real estate appraiser certified  
5 under AS 08.87 and offer to

6 (1) sell the property to the condemnor for the appraised value plus the  
7 cost of appraisal; or

8 (2) exchange the property for a parcel of comparable value.

9 (c) If a property owner makes an offer under (b) of this section within the  
10 reasonable period of time set by the condemnor, the condemnor must either accept the  
11 offer, or reject the offer and provide a reasonable explanation of the reasons for the  
12 rejection along with a reasonable counter offer. If a condemnor invites the property  
13 owner to make an offer to sell the property as described in (b) of this section and the  
14 property owner fails to respond within a reasonable period of time, or if the property  
15 owner rejects a reasonable counter offer made under this subsection, the condemnor  
16 may commence eminent domain proceedings under AS 09.55.290.

17 \* **Sec. 3.** AS 09.55.430 is amended to read:

18 **Sec. 09.55.430. Contents of declaration of taking.** The declaration of taking  
19 must contain

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

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

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

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

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

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

29 (7) a statement that the property is taken by necessity for a project  
30 located in a manner that is most compatible with the greatest public good and the least  
31 private injury; **and**

1                   **(8) except where the consent of a property owner cannot be**  
 2                   **obtained due to incapacity, inability to convey legal title, or absence, a statement**  
 3                   **that the plaintiff has complied with AS 09.55.270(b) and (c), if applicable.**

4 \* **Sec. 4.** AS 09.55.440(a) is amended to read:

5                   (a) Upon the filing of the declaration of taking and the deposit with the court  
 6                   of the amount of the estimated compensation stated in the declaration, title to the  
 7                   estate as specified in the declaration vests in the plaintiff, and that property is  
 8                   condemned and taken for the use of the plaintiff, and the right to just compensation for  
 9                   it vests in the persons entitled to it. The compensation shall be ascertained and  
 10                  awarded in the proceeding and established by judgment. **If, following the award of**  
 11                  **just compensation in the proceedings, the court finds as a matter of law that the**  
 12                  **plaintiff has not complied with AS 09.55.270(b) and (c), the court may award an**  
 13                  **additional sum of up to 10 percent of the award of just compensation as**  
 14                  **additional compensation.** The judgment must include interest at the rate of 10.5  
 15                  percent a year on the amount finally awarded that exceeds the amount paid into court  
 16                  under the declaration of taking. The interest runs from the date title vests to the date  
 17                  of payment of the judgment.

18 \* **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).