

HOUSE CS FOR CS FOR SENATE BILL NO. 278(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/9/02
Referred: Rules

Sponsor(s): SENATORS TORGERSON, Taylor, Wilken
REPRESENTATIVE Croft

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) the condemnor has made a reasonable and diligent effort to**
12 **acquire the property by negotiation as provided in (b) and (c) of this section,**
13 **unless the property owner is**

14 **(A) unable to negotiate due to incapacity;**

1 **(B) unable to convey legal title; or**

2 **(C) absent.**

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

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

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

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

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

19 * **Sec. 3.** AS 09.55.430 is amended to read:

20 **Sec. 09.55.430. Contents of declaration of taking.** The declaration of taking
21 must contain

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

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

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

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

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

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

31 (7) a statement that the property is taken by necessity for a project

1 located in a manner that is most compatible with the greatest public good and the least
2 private injury; **and**

3 **(8) a statement that the plaintiff has complied with**
4 **AS 09.55.270(b) and (c), if applicable, unless the property owner is**

5 **(A) unable to negotiate due to incapacity;**

6 **(B) unable to convey legal title; or**

7 **(C) absent.**

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

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

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