

CS FOR SENATE BILL NO. 382(CRA) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Amended: 4/21/04

Offered: 4/15/04

Sponsor(s): SENATE TRANSPORTATION COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to replat approval; relating to the platting of right-of-way acquired**
2 **through eminent domain proceedings; and providing for an effective date."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE AND INTENT. (a) The purpose of this Act is to confirm the municipal
7 role in eminent domain proceedings, including the right of municipalities to regulate remnant
8 parcels, while at the same time clarifying that that role is not intended to require the same
9 substantive review or procedures for review of replats for the acquisition of property by the
10 state or a municipality as required in replats for private landowner subdivisions or zoning
11 reviews.

12 (b) It is the intent of the legislature to

13 (1) confirm the authority of an agency of the state or a municipality to conduct
14 condemnation proceedings so long as the agency of the state or municipality obtains

1 preliminary replat approval as provided for in this Act, notwithstanding challenges to
 2 particular municipal replat ordinances, review standards, procedures, or applications; and

3 (2) apply secs. 1 and 2 of this Act retrospectively to July 1, 1999, and to
 4 existing litigation such as State of Alaska v. Hartman, 3AN-03-13875 CI and State of Alaska
 5 v. Hinkel, 3AN-04-4768 CI.

6 * **Sec. 2.** AS 09.55.275 is repealed and reenacted to read:

7 **Sec. 09.55.275. Replat approval.** An agency of the state or municipality
 8 acquiring property in fee that results in a boundary change located within a
 9 municipality exercising the powers conferred by AS 29.35.180 or 29.35.260(c) shall
 10 conform to this section by obtaining preliminary approval of a replat showing clearly
 11 the location of the proposed public street or other acquisition of property. The platting
 12 authority may establish applicable review procedures and standards for a replat made
 13 for the purpose of a right-of-way acquisition or condemnation. Neither the adequacy
 14 of the municipal replat process or standards, if any, nor the failure of a municipality to
 15 follow its own replat process and standards shall deprive the state of the authority to
 16 exercise its power of eminent domain. Final approval of replat shall also be obtained.
 17 However, if a state agency clearly demonstrates an overriding state interest, a waiver
 18 of the municipal approval requirements in this section may be granted by the
 19 governor.

20 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 **RETROACTIVITY.** Sections 1 and 2 of the Act are retroactive to July 1, 1999.

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