

HOUSE BILL NO. 317

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES LYNN, Elkins

Introduced: 1/9/06

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act prohibiting the exercise of eminent domain by the state and by its home rule**
2 **and general law municipalities for the purpose of economic development, and repealing**
3 **the authority of the Alaska Housing Finance Corporation under the Slum Clearance and**
4 **Redevelopment Act to exercise the power of eminent domain and to acquire real**
5 **property by eminent domain."**

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

7 *** Section 1.** AS 09.55.240(a) is amended to read:

8 (a) **Except as provided in (d) of this section, the** [THE] right of eminent
9 domain may be exercised for the following public uses:

10 (1) all public uses authorized by the government of the United States;

11 (2) public buildings and grounds for the use of the state and all other
12 public uses authorized by the legislature of the state;

13 (3) public buildings and grounds for the use of an organized or

1 unorganized borough, city, town, village, school district, or other municipal division,
2 whether incorporated or unincorporated; canals, aqueducts, flumes, ditches, or pipes
3 conducting water, heat, or gas for the use of the inhabitants of an organized or
4 unorganized borough, city, town, or other municipal division, whether incorporated or
5 unincorporated; raising the banks of streams, removing obstructions from them, and
6 widening, deepening, or straightening their channels; **and** roads, streets, and alleys,
7 and all other public uses for the benefit of an organized or unorganized borough, city,
8 town, or other municipal division whether incorporated or unincorporated, or its
9 inhabitants, which may be authorized by the legislature;

10 (4) wharves, docks, piers, chutes, booms, ferries, bridges of all kinds,
11 private roads, plant and turnpike roads, railroads, canals, ditches, flumes, aqueducts,
12 and pipes for public transportation, supplying mines and farming neighborhoods with
13 water, and draining and reclaiming land, and for floating logs and lumber on streams
14 not navigable, and sites for reservoirs necessary for collecting and storing water;

15 (5) roads, tunnels, ditches, flumes, pipes, and dumping places for
16 working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of
17 tailings or refuse matter from mines; also an occupancy in common by the owners or
18 possessors of different mines of any place for the flow, deposit, or conduct of tailings
19 or refuse matter from their several mines, and sites for reservoirs necessary for
20 collecting and storing water;

21 (6) private roads leading from highways to residences, mines, or farms;

22 (7) telephone lines;

23 (8) telegraph lines;

24 (9) sewerage of an organized or unorganized borough, city, town,
25 village, or other municipal division, whether incorporated or unincorporated, or a
26 subdivision of it, or of a settlement consisting of not less than 10 families, or of public
27 buildings belonging to the state or to a college or university;

28 (10) tramway lines;

29 (11) electric power lines;

30 (12) for the location of pipelines for gathering, transmitting,
31 transporting, storing, or delivering natural or artificial gas or oil or any liquid or

1 gaseous hydrocarbons, including, but not limited to, pumping stations, terminals,
2 storage tanks, or reservoirs, and related installations.

3 * **Sec. 2.** AS 09.55.240 is amended by adding a new subsection to read:

4 (d) Notwithstanding (a) of this section, the right of eminent domain may not
5 be exercised for the purpose of promoting economic development or to acquire land as
6 part of an economic development project. For purposes of this subsection,

7 (1) "economic development" means an activity intended primarily to
8 increase a municipality's tax revenue, expand a municipality's property tax base, create
9 new jobs or retain existing jobs in a municipality, or improve the overall economic
10 vitality of a municipality, but does not include an activity that results in

11 (A) the transfer to public ownership of the land taken;

12 (B) the transfer of the land taken to a private entity that is a
13 common carrier, such as a railroad or utility;

14 (C) the transfer of the land taken to a private entity when the
15 transfer will facilitate removal of a threat to public health or safety or removal
16 or abatement of a public nuisance; or

17 (D) the lease of the property taken to private entities that
18 occupy an incidental area within a public project;

19 (2) "economic development project" means a project involving the use
20 of land for economic development, including existing or planned improvements.

21 * **Sec. 3.** AS 29.35.030(a) is amended to read:

22 (a) **Except as provided in (c) of this section, a** [A] municipality may, only
23 within its boundaries, exercise the powers of eminent domain and declaration of taking
24 in the performance of a power or function of the municipality under the procedures set
25 out in AS 09.55.250 - 09.55.460. In the case of a second class city, the exercise of the
26 power of eminent domain or declaration of taking must be by ordinance that is
27 submitted to the voters at the next general election or at a special election called for
28 that purpose. A majority of the votes on the question is required for approval of the
29 ordinance.

30 * **Sec. 4.** AS 29.35.030 is amended by adding a new subsection to read:

31 (c) A municipality may not exercise the powers of eminent domain to promote

1 economic development or to acquire land as part of an economic development project.

2 In this subsection, "economic development" and "economic development project"

3 have the meanings given in AS 09.55.240(d).

4 * **Sec. 5.** AS 18.55.550 is repealed.