

1 IN THE HOUSE

BY MR. RADER AND MRS. FISCHER

2 HOUSE BILL NO. 125

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the making of a declara-
7 tion of taking for any purpose for which the
8 State of Alaska, any public utility district,
9 or school district, is authorized to exercise
10 the power of eminent domain; amending Sec. 1
11 of Ch. 90 SLA 1953, as amended by Sec. 1
12 of Ch. 138, 1955, amending Secs. 3, 4 and 5
13 of Ch. 90 SLA 1953; and providing for an
14 effective date."

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

16 Section 1. Sec. 1 of Ch. 90 SLA 1953 as amended by Sec. 1
17 of Ch. 138 SLA 1955 is hereby amended to read as follows:

18 Sec. 1. DECLARATION OF TAKING: AUTHORITY TO FILE. In
19 any proceeding instituted by and in the name of the State
20 /TERRITORY/ of Alaska, any public utility district, or
21 school district, hereinafter referred to as "condemning
22 agency", involving the acquisition of any real property or
23 any interest therein, for any purpose for which the condemning
24 agency /TERRITORY/ is authorized the power of eminent domain,
25 the petitioner may file the cause, with the petition or at
26 any time before judgment, a declaration of taking signed
27 by the state or other /TERRITORIAL/ authority empowered by
28 law to acquire the real property or any interests therein
29 or any easement described in the petition, declaring that

1 said real property or any interest therein or any easement
2 is thereby taken for the use of the state, public utility
3 district, or school district [/TERRITORY OF ALASKA/].

4 Sec. 2. Sec. 3 of Ch. 90 SLA 1953 is hereby amended to read
5 as follows:

6 Sec. 3. VESTING OF TITLE: COMPENSATION. Upon the
7 filing of the declaration of taking and the deposit with
8 the clerk of the court in which the proceeding is pending,
9 for the use of the persons entitled thereto, of the amount
10 of the estimated compensation stated in the said declaration,
11 title to the real property in fee simple absolute, or such
12 lesser estate or interest therein as is specified in said
13 declaration, shall vest in the condemning agency [/TERRITORY
14 OF ALASKA,] and such real property or interests therein or
15 easement shall be deemed to be condemned and taken for the
16 use of the condemning agency [/TERRITORY OF ALASKA,] and the
17 right to just compensation for the same shall vest in the
18 persons entitled thereto. The compensation shall be ascer-
19 tained and awarded in the proceeding and established by judg-
20 ment therein, and the judgment shall include, as part of the
21 just compensation awarded, interest at the rate of 6 per
22 centum per annum on the amount finally awarded as the value
23 of the property as of the date title vests in the condemning
24 agency [/TERRITORY OF ALASKA/] to the date of payment; but
25 interest shall not be allowed on so much thereof as shall
26 have been paid to the clerk of the court.

27 Upon the application of any party in interest, and upon
28 due notice to all parties, the court may order that the money
29 deposited in the court, or any part thereof, be paid forthwith

1 to the person or persons entitled thereto for or on account
2 of the just compensation to be awarded /D/ in the proceedings.
3 If the compensation finally awarded shall exceed the amount
4 of money so deposited, the court shall enter judgment against
5 the condemning agency /TERRITORY OF ALASKA/ and in favor of
6 the parties entitled thereto for the amount of the deficiency.
7 If the compensation finally awarded shall be less than the
8 amount of money so deposited and paid to the persons entitled
9 thereto, the court shall enter judgment in favor of the
10 condemning agency /TERRITORY OF ALASKA/ and against the
11 proper parties for the amount of the excess.

12 Sec. 3. Sec. 4 of Ch. 90 SLA 1953 is hereby amended to read
13 as follows:

14 Sec. 4. RIGHT OF ENTRY AND POSSESSION. Upon the filing
15 of the declaration of taking and the deposit with the clerk
16 of the court of the estimated compensation, the court shall
17 have the power to fix the time within which and the terms
18 upon which the parties in possession shall be required to
19 surrender possession to the petitioner; Provided, that the
20 right of entry shall in no case be granted the petitioner
21 until after the running of the time for the defendant to
22 file a challenge to the declaration of taking under section
23 6 of this Act. If, for any reason, the right of entry is
24 postponed by the court in any case where the party in posses-
25 sion has withdrawn any part of the award, the court may
26 fix a reasonable rental for the premises to be paid by such
27 party to the condemning agency /TERRITORY OF ALASKA/ during
28 such occupancy.

29 The court also shall have the power to direct the pay-

1 ment of delinquent taxes and special assessments out of the
2 amount determined to be just compensation, and to make such
3 orders with respect to encumbrances, liens, rents, insurance,
4 and other charges, as shall be just and equitable.

5 The right to take possession and title in advance of
6 final judgment in condemnation proceedings as provided by
7 this Act shall be in addition to any right, power, or author-
8 ity conferred by the condemning agency [/TERRITORY/] under
9 which such proceedings may be conducted, and shall not be
10 construed as abrogating, limiting, or modifying any such
11 right, power, or authority.

12 Sec. 4. Sec. 5 of Ch. 90 SLA 1953 is hereby amended to read
13 as follows:

14 Sec. 5. EFFECT OF APPEAL. No appeal in any cause under
15 this Act nor any bond or undertaking given therein shall
16 operate to prevent or delay the vesting of title to real
17 property or any interests therein or any easement in the
18 condemning agency [/TERRITORY OF ALASKA/].

19 The condemning agency [/TERRITORY OF ALASKA/] shall not
20 be divested of any title to real property or any interests
21 therein or any easement acquired under this Act by court
22 order except where such court finds that said property or any
23 interests therein or any easement were not taken for a public
24 use. In the event of such finding, the court shall enter
25 such judgment as may be necessary (1) to compensate the per-
26 sons entitled thereto for the period during which the property
27 was in the possession of the condemning agency [/TERRITORY/]
28 and (2) to recover for the condemning agency [/TERRITORY/] any
29 award paid to any person.

