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IN THE SENATE BY STATE AFFAIRS COMMITTEE
CS FOR SENATE BILL NO. 195
IN THE LEGISLATURE OF THE STATE OF ALASKA
FIRST LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the procedure to be followed in the exercise of the power of eminent domain; repealing conflicting laws; providing for possession of the premises by the plaintiff; securing payment of damages to the parties in possession and the withdrawal of funds by parties in interest; and providing for an effective date."

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

Section 1. PROCEDURE TO BE FOLLOWED. The procedure for the exercise of the right of eminent domain, in condemning property for a public use or uses, shall be governed by the provisions of Rule 71A, Federal Rules of Civil Procedure, which Rule 71A is hereby incorporated by reference as though set forth in full herein, to the extent that the procedure prescribed in that rule can be made applicable to Alaska substantive law governing eminent domain.

Sec. 2. CONFLICTING STATUTES REPEALED. All procedural statutes of Alaska which are in conflict with or inconsistent with section 1 of this Act are hereby repealed to the extent of such conflict or inconsistency.

Sec. 3. ADDITIONAL POWERS OF THE COURT TO REQUIRE SURRENDER OF POSSESSION TO PLAINTIFF. Notwithstanding the provisions of Sec. 57-7-21, ACLA 1949; Ch. 90, SLA 1953; Ch. 122, SLA 1955, or of any other law relating to the acquisition of property for a

1 public use through the exercise of the right of eminent domain,
2 the court may, upon motion, and after a hearing fix the time
3 within which and the terms upon which the parties in possession
4 shall be required to surrender possession to the plaintiff. If
5 the court finds that urgent public necessity so requires, it may
6 grant the plaintiff possession at any time after the action has
7 been commenced. Notice of the hearing shall be as provided in
8 Rule 5 of the Rules of Civil Procedure of the State of Alaska,
9 except that, where service by publication is required, notice may
10 be given at any time following the date of the last publication
11 by registered mail addressed to the defendant and to parties in
12 possession at their last known addresses, as shown on the latest
13 tax roll of the political subdivision in which the premises are
14 located or as indicated by other evidence which shall be satis-
15 factory to the court.

16 Sec. 4. DEPOSIT INTO COURT OF ESTIMATED COMPENSATION AND
17 DAMAGES. The order requiring the parties in possession to surrender
18 possession to the plaintiff shall require that the plaintiff
19 deposit with the clerk of the court an amount of money determined
20 by the court fairly to represent the estimated compensation and
21 the estimated damages to the defendant and for the speedy occupa-
22 tion, including reasonable relocation costs, if required. In
23 addition, the court shall include in its order a further require-
24 ment that the plaintiff execute and file with the clerk of the
25 court a bond, approved as to form and as to sufficiency of the
26 sureties by the court, in an amount equal to the amount of money
27 required to be deposited, conditioned upon payment to the defendant
28 of any additional damages and costs found to be due to the defend-
29 ant in the action. Neither the amount of the cash deposit nor the

1 amount of the bond shall be admissable as evidence at the hearing
2 or trial on the issue of just compensation.

3 Sec. 5. WITHDRAWAL OF FUNDS BY PARTY IN INTEREST. The money
4 deposited in the court, or any part thereof, may be withdrawn by
5 any party in interest in the manner provided in Sec. 3, Ch. 90,
6 SLA 1953 (57-7-26, ACLA Cumulative Supplement) and the court shall
7 have the power to direct the payment of delinquent taxes and
8 special assessments out of the amount determined to be just compen-
9 sation and to make such orders with respect to encumbrances, liens,
10 rents, insurance, and other charges as shall be just and equitable.

11 Sec. 6. POWERS CONFERRED TO BE ADDITIONAL. The powers of
12 the court hereby conferred in respect of requiring surrender of
13 possession of the premises sought to be condemned are additional
14 to any other rights, powers or authority otherwise conferred by
15 law, and shall not be construed as abrogating, limiting or modify-
16 ing any such rights, powers or authority.

17 Sec. 7. EFFECTIVE DATE. This Act takes effect on the day
18 after its passage and approval or on the day it becomes law without
19 such approval.

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