

1 IN THE SENATE BY STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the procedure to be
7 followed in the exercise of the power of
8 eminent domain; repealing conflicting laws;
9 providing for possession of the premises by
10 the plaintiff; securing payment of damages
11 to the parties in possession and the with-
12 drawal of funds by parties in interest; and
13 providing for an effective date."

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

15 Section 1. PROCEDURE TO BE FOLLOWED. The procedure for the
16 exercise of the right of eminent domain, in condemning property
17 for a public use or uses, shall be governed by the provisions of
18 Rule 71A, Federal Rules of Civil Procedure, which Rule 71A is
19 hereby incorporated by reference as though set forth in full herein,
20 to the extent that the procedure prescribed in that rule can be
21 made applicable to Alaska substantive law governing eminent domain,
22 until such time as the Supreme Court of Alaska shall promulgate
23 rules pertaining to eminent domain. The procedures set forth
24 above for appointment of, and hearing by, commissioners with the
25 right to appeal the award, with jury trial, unless jury trial is
26 waived by both parties, shall continue in effect, as provided for
27 in Secs. 57-7-12 through 57-7-16, ACLA 1949.

28 Sec. 2. CONFLICTING STATUTES REPEALED. All procedural
29 statutes of Alaska which are in conflict with or inconsistent with

1 section 1 of this Act are hereby repealed to the extent of such
2 conflict or inconsistency.

3 Sec. 3. ADDITIONAL POWERS OF THE COURT TO REQUIRE SURRENDER
4 OF POSSESSION TO PLAINTIFF. Notwithstanding the provisions of
5 Sec. 57-7-21, ACLA 1949; Ch. 90, SLA 1953; Ch. 122, SLA 1955, or
6 of any other law relating to the acquisition of property for a
7 public use through the exercise of the right of eminent domain,
8 the court may, upon motion, and after a hearing fix the time
9 within which and the terms upon which the parties in possession
10 shall be required to surrender possession to the plaintiff. If
11 the court finds that urgent public necessity so requires, it may
12 grant the plaintiff possession at any time after the action has
13 been commenced. Notice of the hearing shall be as provided in
14 Rule 5 of the Rules of Civil Procedure of the State of Alaska,
15 except that, where service by publication is required, notice may
16 be given at any time following the date of the last publication
17 by registered mail addressed to the defendant and to parties in
18 possession at their last known addresses, as shown on the latest
19 tax roll of the political subdivision in which the premises are
20 located or as indicated by other evidence which shall be satis-
21 factory to the court. This section is limited in its application
22 to the acquisition of easements for the transmission and distribu-
23 tion of electric energy, communications, water, steam, and gas.

24 Sec. 4. DEPOSIT INTO COURT OF ESTIMATED COMPENSATION AND
25 DAMAGES. The order requiring the parties in possession to surren-
26 der possession to the plaintiff shall require that the plaintiff
27 deposit with the clerk of the court an amount of money determined
28 by the court fairly to represent the estimated compensation and the
29 estimated damages to the defendant and for the speedy occupation,

1 including reasonable relocation costs, if required. In addition,
2 the court shall include in its order a further requirement that
3 the plaintiff execute and file with the clerk of the court a bond,
4 approved as to form and as to sufficiency of the sureties by the
5 court, in an amount equal to the amount of money required to be
6 deposited, conditioned upon payment to the defendant of any
7 additional damages and costs found to be due to the defendant in
8 the action. Neither the amount of the cash deposit nor the amount
9 of the bond shall be admissible as evidence at the hearing or
10 trial on the issue of just compensation. No costs or attorney
11 fees shall be assessed against the defendant in any action brought
12 under this Act.

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

21 Sec. 6. POWERS CONFERRED TO BE ADDITIONAL. The powers of
22 the court hereby conferred in respect of requiring surrender of
23 possession of the premises sought to be condemned are additional
24 to any other rights, powers or authority otherwise conferred by
25 law, and shall not be construed as abrogating, limiting or modify-
26 ing any such rights, powers or authority.

27 Sec. 7. EFFECTIVE DATE. This Act takes effect on the day
28 after its passage and approval or on the day it becomes law without
29 such approval.