

Original sponsor: Siegler

Offered: 3/20/68  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 216

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to hearing and trial in eminent  
7 domain proceedings."

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

9 \* Section 1. Subdivision (h) (2) of Rule 72 of the Rules of Civil Pro-  
10 cedure is amended to read:

11 (2) Hearing before master. A master appointed by the court  
12 to ascertain the amount to be paid by the plaintiff to each owner or  
13 other person interested in the property shall report to the court pur-  
14 suant to Rule 53(d)(1). If all parties object to the appointment of a  
15 master, they may have a trial by jury or, if the jury is waived by all  
16 parties to the action, a trial without a jury, by filing a demand for it  
17 within the time allowed for answer or within the additional time which  
18 the court may set.

19 \* Sec. 2. Subdivision (d)(2) of Rule 72 of the Rules of Civil Procedure  
20 is amended to read:

21 (2) Form. Each notice shall state the court, the title of  
22 the action, the name of the defendant to whom it is directed, that the  
23 action is to condemn property, a description of his property sufficient  
24 for its identification, the interest to be taken, the authority and  
25 necessity for the taking, and the use for which the property is to be  
26 taken. The notice must show the location, route and termini of any  
27 easement or right-of-way sought to be condemned.

28 The notice shall also state that the defendant may serve upon the  
29 plaintiff's attorney an answer within twenty (20) days after service of

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the notice, that a failure to serve an answer constitutes a consent to the taking and to the authority of the court to proceed to hear the action and to fix the compensation, and that at a designated time and place the court will conduct a hearing to determine the authority and necessity for the taking.

The notice shall further state that the defendant, without filing an answer, may serve on plaintiff's attorney a notice of appearance designating the property in which he claims to be interested; that thereafter he will receive notice of all proceedings affecting it; that regardless of whether the defendant appears or answers, he may present evidence as to the amount of compensation to be paid for his property at the hearing or trial of the issue of just compensation; that regardless of whether he appears or answers he may share in the distribution of the award; that if neither an appearance nor an answer is filed the court will proceed to hear the action and to fix the compensation without further notice; and that if neither an appearance nor an answer is filed before ten (10) days after the jury's verdict is returned or the master's report is filed, judgment by default will be taken against the defendant for the relief demanded in the complaint.