

Introduced: 1/25/68
Referred: Judiciary

1 IN THE SENATE

BY ZIEGLER

2 SENATE BILL NO. 255

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 costs to be awarded in condemna-
7 tion proceedings."

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

9 * Section 1. AS 09.60 is amended by adding new sections to read:

10 Sec. 09.60.070. COSTS ALLOWED FOR ATTORNEY AND WITNESS FEES. (a)

11 When a trial is held for the fixing of the amount of compensation to
12 be awarded to the owner or to any party having an interest in the prop-
13 erty being condemned, and the condemnee has offered to stipulate to an
14 order of immediate possession of the property being condemned, the
15 court may award the condemnee reasonable attorney fees and reasonable
16 expert witness fees actually incurred if

17 (1) the condemnor fails to make any written offer in settle-
18 ment to the condemnee at least 30 days prior to commencement of the
19 trial;

20 (2) the judgment awarded as a result of the trial exceeds by
21 10 per cent or more the highest written offer in settlement submitted
22 by condemnor at least 30 days prior to commencement of the trial to
23 those condemnees appearing in the action; or

24 (3) the condemnor, has in the opinion of the court, shown
25 bad faith in its dealings with the condemnee relative to the property
26 condemned.

27 (b) In no event may any offer in settlement be referred to or
28 used during the trial for any purpose in determining the amount of
29 compensation to be paid for the property.

1 **Sec. 09.60.080. PRE-TRIAL STATEMENT OF COMPENSATION TO BE PAID**
2 **IN THE EVENT OF SETTLEMENT.** In all actions for the condemnation of
3 property, or any interest therein, at least 30 days before the date set
4 for trial of the action, the condemnor shall serve on each condemnee
5 who has made an appearance in the action a written statement showing
6 the amount of total just compensation to be paid in the event of
7 settlement.

8 **Sec. 09.60.090. PAYMENT TO DEFRAY OWNER'S COSTS OF EVALUATING.**
9 There shall be paid by the condemnor in respect of each parcel of real
10 property acquired by eminent domain, or by consent under threat there-
11 of, in addition to the fair market value of the property, a sum equal
12 to the various expenditures actually and reasonably incurred by those
13 with an interest or interests in the parcel in the process of evalu-
14 ating the condemnor's offer to buy the property, but not to exceed a
15 total of \$200. In the case of multiple interests in a parcel, the
16 division of this sum shall be determined by the court or by agreement
17 of the parties.

18 **Sec. 09.60.100. COSTS WHERE CONDEMNOR FAILS TO PROCEED OR ABAN-**
19 **DONS PROCEEDINGS.** If a condemnor, after entry of an order of public
20 use and necessity in any eminent domain proceeding, shall fail to pro-
21 ceed to acquire the property or abandons the proceedings, the court
22 may in its discretion award to the condemnee a reasonable sum as at-
23 torney fees and expert witness fees.

24 **Sec. 09.60.110. COST OF MOVING PROPERTY. (a)** Any person or or-
25 ganization whose real property or interest in real property is ac-
26 quired by eminent domain, or by consent under threat thereof, is en-
27 titled to be reimbursed by the agency or person acquiring the property
28 or interest therein, as provided in this chapter, for the reasonable
29 costs which he actually and necessarily incurred as a result of the

1 acquisition in moving his personal property from the real property ac-
2 quired, the costs to include dismantling, removing, packing, loading,
3 transporting, unpacking and temporary storage not to exceed 60 days,
4 but not a devaluation of the personal property incurred in or caused
5 by the moving. The amount of reimbursement for transportation may not
6 exceed the cost of moving 100 miles from the point from which the per-
7 son or organization is displaced. In no event shall the amount of
8 reimbursement exceed the sum of \$500 for removal of personal property
9 in the case of an individual or a family, or sum of \$10,000 for removal
10 of personal property in the case of a business concern (including the
11 operation of a farm) or a nonprofit organization, or the sum of the
12 two when both removals are required.

13 (b) A person or organization is entitled to reimbursement as pro-
14 vided in (a) of this section only if his personal property was lawful-
15 ly upon the real property when the real property or interest therein
16 was acquired or when the person or organization relinquished his
17 possession to the condemnor or prospective condemnor in anticipation
18 of its acquisition.

19 Sec. 09.60.120. STATEMENT OF COSTS. (a) Within 90 days follow-
20 ing acquisition of the property or removal of the personal property,
21 whichever occurs last, or if by condemnation within 90 days following
22 entry of judgment, the person claiming reimbursement shall serve upon
23 the agency or person acquiring the real property or interest therein
24 a written verified statement of his costs, including the following in-
25 formation:

- 26 (1) the date the removal was completed,
27 (2) the location from which and to which the personal property
28 was moved,
29 (3) the place and proprietor, and the time and duration of

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any temporary storage,

(4) an itemized statement of the costs incurred, including the name and address of any persons furnishing services in connection with moving, and

(5) the amount of reimbursement claimed.

(b) When acquisition was by condemnation, the condemnor shall have 20 days following service of the verified statement of costs of moving personal property to object and move to quash or for an order fixing the amount by the court.