

Original sponsor: Ziegler

Introduced: 3/25/68
Referred: Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

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HOUSE CS FOR SENATE BILL NO. 255

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FIFTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to costs to be awarded in condemna-
7 tion proceedings."

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

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

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ARTICLE 2. EMINENT DOMAIN PROCEEDINGS.

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Sec. 09.60.110. COSTS FOR ATTORNEY AND WITNESS FEES IN EMINENT

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DOMAIN PROCEEDINGS. (a) When a trial is held for the fixing of the

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amount of compensation to be awarded to the owner or to any party having

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an interest in the property being condemned, and the condemnee has

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offered to stipulate to an order of immediate possession of the property

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being condemned, the court may, in accordance with the Rules of Civil

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Procedure, award the condemnee reasonable attorney fees and reasonable

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expert witness fees actually incurred if

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(1) the condemnor fails to make a written offer in settle-

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ment to the condemnee at least 30 days before commencement of the

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trial;

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(2) the judgment awarded as a result of the trial exceeds by

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10 per cent or more the highest written offer in settlement submitted

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by the condemnor at least 30 days before commencement of the trial to

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those condemnees appearing in the action; or

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(3) the condemnor has, in the opinion of the court, shown

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bad faith in its dealings with the condemnee relative to the property

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condemned.

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(b) The court may, in accordance with the Rules of Civil Procedure,

1 award the condemnor reasonable attorney fees and reasonable expert
2 witness fees actually incurred if

3 (1) the judgment awarded as a result of the trial is 10 per
4 cent or more below the lowest figure stated by the condemnee as
5 acceptable to him in settlement; or

6 (2) the condemnee has, in the opinion of the court, shown
7 bad faith in his dealings with the condemnor relative to the property
8 condemned.

9 (c) No offer in settlement may be referred to or used during the
10 trial for any purpose in determining the amount of compensation to be
11 paid for the property.

12 Sec. 09.60.120. PRE-TRIAL STATEMENT OF COMPENSATION TO BE PAID
13 IN THE EVENT OF SETTLEMENT. In an action for the condemnation of
14 property, or an interest in it, at least 30 days before the date set
15 for trial of the action, the condemnor shall serve on each condemnee
16 who has made an appearance in the action a written statement showing
17 the amount of total just compensation to be paid in the event of
18 settlement.

19 Sec. 09.60.130. PAYMENT TO DEFRAY OWNER'S COSTS OF EVALUATING.
20 The condemnor shall pay, in respect of each parcel of real property
21 acquired by eminent domain, or by consent under threat of it, in
22 addition to the fair market value of the property, a sum equal to
23 the various expenditures actually and reasonably incurred by those
24 with an interest in the parcel in the process of evaluating the
25 condemnor's offer to buy the property, but not to exceed a total of
26 \$200. In the case of multiple interests in a parcel, the division of
27 this sum shall be determined by the court or by agreement of the
28 parties.

29 Sec. 09.60.140. COSTS WHERE CONDEMNOR FAILS TO PROCEED OR

1 ABANDONS PROCEEDINGS. If a condemnor, after entry of an order of
2 public use and necessity in any eminent domain proceeding, fails to
3 proceed to acquire the property or abandons the proceedings, the court
4 may in its discretion award to the condemnee a reasonable sum as
5 attorney fees and expert witness fees.

6 Sec. 09.60.150. COST OF MOVING PROPERTY. (a) A person whose
7 real property or interest in real property is acquired by eminent
8 domain, or by consent under threat of it, is entitled to be reimbursed
9 by the agency or person acquiring the property or interest in it,
10 as provided in secs. 110 - 160 of this chapter, for the reasonable
11 costs which he actually and necessarily incurred as a result of the
12 acquisition in moving his personal property from the real property
13 acquired. The costs may include dismantling, removing, packing, load-
14 ing, transporting, unpacking and temporary storage not to exceed 60
15 days, but not a devaluation of the personal property incurred in or
16 caused by the moving. The amount of reimbursement for transportation
17 may not exceed the cost of moving 100 miles from the point from which
18 the person or organization is displaced. The amount of reimbursement
19 may not exceed \$500 for removal of personal property in the case of an
20 individual or a family, or \$10,000 for removal of personal property in
21 the case of a business concern (including the operation of a farm)
22 or a nonprofit organization, or the sum of the two when both removals
23 are required; however, to the extent that the state may be reimbursed
24 for moving expense payments under a Federal program, payment up to
25 \$25,000 may be made for removal of personal property in the case of a
26 business concern (including a farm) or a nonprofit corporation.

27 (b) A person is entitled to reimbursement as provided in (a)
28 of this section only if his personal property was lawfully upon the
29 real property when the real property or interest therein was acquired

1 the person relinquished his possession to the condemnor or prospective
2 condemnor in anticipation of its acquisition.

3 Sec. 09.60.160. STATEMENT OF COSTS. (a) Within 90 days follow-
4 ing acquisition of the property or removal of the personal property,
5 whichever occurs last, or if by condemnation within 90 days following
6 entry of judgment, the person claiming reimbursement shall serve upon
7 the agency or person acquiring the real property or interest in it a
8 written verified statement of his costs, including the following in-
9 formation:

10 (1) the date the removal was completed,

11 (2) the location from which and to which the personal
12 property was moved,

13 (3) the place and proprietor, and the time and duration of
14 any temporary storage,

15 (4) an itemized statement of the costs incurred, including
16 the name and address of a person furnishing services in connection
17 with moving, and

18 (5) the amount of reimbursement claimed.

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