

Original Sponsor: Croft

Offered: 4/15/76  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 546

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the power of eminent domain."

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

8 \* Section 1. AS 09.55.430 is amended by adding a new paragraph to read:

9 (7) a statement that the property is taken by necessity  
10 for a project located in a manner which is most compatible with the  
11 greatest public good and the least private injury.

12 \* Sec. 2. AS 09.55.450(a) is amended to read:

13 (a) Upon the filing of the declaration of taking and the deposit  
14 of the estimated compensation, the court may, upon motion, fix the  
15 time during which and the terms upon which the parties in possession  
16 are required to surrender possession to the petitioner. However, the  
17 right of entry shall not be granted the plaintiff until after the run-  
18 ning of the time for the defendant to file an objection to the declara-  
19 tion of taking or until after the hearing on any objection to the declar-  
20 ation of taking if the objection is made in the time allowed by law.

21 Where the party in possession withdraws any part of the award and re-  
22 mains in possession, the court may fix a reasonable rental for the  
23 premises to be paid by that party to the plaintiff during such posses-  
24 sion.

25 \* Sec. 3. AS 09.55.460(b) is amended to read:

26 (b) The plaintiff may not be divested of a title or possession  
27 acquired except where the court finds that the property was not taken  
28 by necessity for a public use or purpose in a manner compatible with the  
29 greatest public good and the least private injury. In the event of that

1 finding, the court shall enter the judgment necessary to (1) compensate  
2 the persons entitled to it for the period during which the property was  
3 in the possession of the plaintiff, [AND] (2) recover for the plaintiff  
4 any award paid to any person, and (3) order the plaintiff to restore the  
5 property to the condition in which it existed at the time of the filing  
6 of the declaration of taking unless such restoration is impossible, in  
7 which case the court shall award damages to the proper persons as com-  
8 pensation for any diminution in the value of the property caused by the  
9 plaintiff's wrongful possession.

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