

Introduced: 4/20/81
Referred: Judiciary and Finance

1 IN THE HOUSE

BY ZHAROFF

2 HOUSE BILL NO. 515

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to award of damages in actions involv-
7 ing state contracts or permits; and changing Rule 82
8 of the Alaska Supreme Court Rules of Civil Procedure."

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

10 * Section 1. FINDINGS. The legislature finds that court action seeking
11 to prevent the State of Alaska from issuing contracts or permits frequently
12 causes substantial money damages even though the final decision of the court
13 finds the action of the state was validly taken. This damage is a social
14 cost which must fall on someone. This cost is now borne by persons who
15 contract with the state or seek a permit from the state and by the general
16 public. The person who seeks to prevent state action bears a minimal degree
17 of the loss caused by that person's actions. It is the policy of the state
18 that in these types of court action the person bringing the action should be
19 responsible for the consequences whether that person is acting to protect an
20 alleged public interest or to protect his own private interest.

21 * Sec. 2. AS 09.65 is amended by adding a new section to read:

22 Sec. 09.65.140. DAMAGES IN ACTION INVOLVING STATE CONTRACTS OR
23 PERMITS. A person who files an action which seeks to prevent the State
24 of Alaska from entering into or carrying out a contract or from issuing
25 a permit and a person who voluntarily joins as party plaintiff or
26 voluntarily appears in the action supporting the relief sought is
27 liable to the state or to a private person who suffers damages from the
28 action unless the plaintiff substantially prevails on the merits of the
29 action. The amount of damages includes all actual damages, all addi-



1 tional costs which may reasonably result from delay attributable to the
2 action, and all expenses reasonably incurred in defending the litigation
3 including actual attorney fees. Damages shall be awarded under this
4 section to the extent the damages are established regardless of whether
5 the action is in the public interest.

6 * Sec. 3. AS 09.65.140 added in sec. 2 of this Act has the effect of
7 changing Rule 82 of the Alaska Supreme Court Rules of Civil Procedure by
8 requiring payment of actual attorney fees in certain instances by a person
9 who has not substantially prevailed on the merits of an action.

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