

Introduced: 4/26/84
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

HOUSE BILL NO. 718

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act releasing claims of the state to land within
7 certain rights-of-way; and providing for an effective
8 date."

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

10 * Section 1. LEGISLATIVE PURPOSE AND FINDING. (a) The purpose of
11 sec. 2 of this Act is to release and relinquish certain rights-of-way
12 claimed by the Alaska Department of Transportation and Public Facilities.

13 (b) The legislature finds that sec. 2 of this Act is needed to alle-
14 viate economic hardship and physical and mental distress caused by the
15 taking of land by the state without just compensation.

16 * Sec. 2. AS 19.25 is amended by adding a new section to read:

17 Sec. 19.25.260. RELINQUISHMENT OF RIGHT-OF-WAY. (a) The right-
18 of-way for a road, roadway, highway, tramway, trail, bridge, or appur-
19 tenant structure created, withdrawn, or reserved under the Act of
20 January 27, 1905, 33 Stat. 616, the Act of June 30, 1932, 47 Stat.
21 446, the Act of July 24, 1947, 61 Stat. 418, Public Land Orders 601,
22 757, and 1613, and Department of the Interior Order 2665, as amended,
23 that is not on the effective date of this Act physically occupied by
24 the roadway, shoulder, or ditching of a road, roadway, highway, tram-
25 way, trail, bridge, or appurtenant structure is vacated and relin-
26 quished and the vacated and relinquished right-of-way may not be
27 taken, claimed, asserted, or used by the state without the payment of
28 just compensation.

29 (b) The provisions of (a) of this section relinquish and release

1 to the adjoining property owners on the effective date of this Act
2 that portion of the right-of-way claimed, asserted, or used by the
3 state that is not physically occupied by the roadway, shoulder, or
4 ditching of the roadway before the effective date of this Act.

5 (c) The provisions of (a) of this section do not divest the
6 state of title to land or require compensation by the state for land
7 physically occupied on the effective date of this Act by the roadway,
8 shoulder, or ditching of a road, roadway, highway, tramway, trail,
9 bridge, or appurtenant structure then constructed within the right-
10 of-way created, withdrawn, or reserved under the Acts of Congress and
11 the orders described in (a) of this section.

12 (d) Any expansion beyond the existing roadway, shoulders, or
13 ditching of a road, roadway, highway, tramway, trail, bridge, or
14 appurtenant structure requires the payment of just compensation to the
15 owner of the land and no other acts or actions by the state constitute
16 a physical occupation by a roadway, shoulder, or ditching within the
17 meaning of this section. The state has the burden of proof to show by
18 clear and convincing evidence that the physical occupation by a road-
19 way, shoulders, or ditching occurred before the effective date of this
20 Act.

21 (e) As used in this section, "physically occupied by the road-
22 way, shoulder, or ditching" means the construction of the actual
23 roadway, shoulders, or ditching before the effective date of this Act.

24 (f) This section does not relieve a person from an act for which
25 the person may be responsible regarding a past transfer of a right-of-
26 way or an interest in a right-of-way.

27 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
28 10.070(c).