

Introduced: 3/6/85  
Referred: Transportation,  
Judiciary and Finance

1 IN THE HOUSE

BY MARROU

2

HOUSE BILL NO. 263

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST 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. The purpose of this Act  
11 is to release certain highway rights-of-way claimed by the state that are  
12 causing economic hardship and physical and mental distress to persons who  
13 hold title to land under a reservation to the state by virtue of 33 Stat.  
14 616 (Act of January 27, 1905); 47 Stat. 446 (Act of June 30, 1932); 48  
15 U.S.C. secs. 321(a) - 327 (Act of July 24, 1947); Public Land Order 601, 14  
16 Fed. Reg. 5048 (1949); Public Land Order 757, 16 Fed. Reg. 10, 749 (1951);  
17 Public Land Order 1613, 23 Fed. Reg. 2376, 2378 (1958); or Departmental  
18 Order 2665, 16 Fed. Reg. 10, 752 (1951).

19 \* Sec. 2. RELINQUISHMENT OF RIGHT-OF-WAY. The commissioner of trans-  
20 portation and public facilities shall vacate and relinquish to the adjoin-  
21 ing property owners any and all rights-of-way for a road, roadway, highway,  
22 tramway, trail, bridge, or appurtenant structure created, withdrawn or  
23 reserved under 33 Stat. 616 (Act of January 27, 1905); 47 Stat. 446 (Act of  
24 June 30, 1932); 48 U.S.C. secs. 321(a) - 327 (Act of July 24, 1947); Public  
25 Land Order 601, 14 Fed. Reg. 5048 (1949); Public Land Order 757, 16 Fed.  
26 Reg. 10, 749 (1951); Public Land Order 1613, 23 Fed. Reg. 2376, 2378  
27 (1958); or Departmental Order 2665, 16 Fed. Reg. 10, 752 (1951) if the  
28 right-of-way on the effective date of this Act is not physically occupied  
29 by a road, roadway, highway, tramway, trail, bridge, or appurtenant

1 structure.

2 \* Sec. 3. TAKING OF RIGHT-OF-WAY WITHOUT JUST COMPENSATION VOID. The  
3 vacated and relinquished right-of-way under sec. 2 of this Act may not be  
4 taken, claimed, asserted, or used by the state without the payment of just  
5 compensation.

6 \* Sec. 4. PHYSICAL OCCUPATION OF RIGHT-OF-WAY. (a) The provisions of  
7 this Act do not divest the state of its interest in a right-of-way to land  
8 or require compensation by the state for land physically occupied on the  
9 effective date of this Act by a road, roadway, highway, tramway, trail,  
10 bridge, or appurtenant structure then constructed within the right-of-way  
11 created, withdrawn, or reserved under the Acts of Congress and the orders  
12 described in sec. 2 of this Act; nor do the provisions of this Act divest  
13 the state of an interest in an easement of specific width set out in the  
14 original patent from the state or federal government.

15 (b) Expansion beyond an existing road, roadway, highway, tramway,  
16 trail, bridge, or appurtenant structure requires the payment of just com-  
17 pensation to the owner of the land and no other acts or actions by the  
18 state constitute a physical occupation within the meaning of this section.  
19 The state has the burden of proof to show by clear and convincing evidence  
20 that the physical occupation occurred before the effective date of this  
21 Act.

22 \* Sec. 5. APPLICATION TO FEDERAL LAND. The provisions of this Act do  
23 not divest the state of its interest in a right-of-way that affects land in  
24 which fee title is, on the effective date of this Act, vested in the United  
25 States of America.

26 \* Sec. 6. DEFINITION. As used in this Act, "physically occupied" means  
27 the construction of the actual roadway, including its shoulders and ditch-  
28 ing, highway, tramway, trail, bridge, or appurtenant structures, before the  
29 effective date of this Act.

1     \* Sec. 7. RETROACTIVE APPLICATION. This Act does not relieve, alter,  
2 or void a voluntary conveyance of an easement including an easement dedi-  
3 cated by plat.

4     \* Sec. 8. EFFECTIVE DATE. This Act takes effect immediately in accor-  
5 dance with AS 01.10.070(c).