

CS HB 321 (file)

Introduced: 3/25/85
Referred: Transportation
and Judiciary

1 IN THE HOUSE

BY COTTEN AND MARROU

2

HOUSE BILL NO. 321

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the title to property abutting
7 certain highways in the state; and providing for an
8 effective date."

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

10 * Section 1. AS 09.45 is amended by adding a new section to read:

11 Sec. 09.45.015. PRESUMPTION IN CERTAIN CASES. (a) If a person
12 in possession of real property holds title that is derived from a
13 patent from the United States and if the land had been subject to the
14 Act of August 1, 1956 (70 Stat. 898) and to PLO 1613 of the Secretary
15 of the Interior (April 7, 1958), unless the patent from the United
16 States stated that the land conveyed was subject to the Act of
17 August 1, 1956 and PLO 1613 of the Secretary of the Interior, it is
18 presumed that the land conveyed was not subject to the restrictions
19 stated in the Act of August 1, 1956 and in PLO 1613 of the Secretary
20 of the Interior and that the patent from the United States conveyed
21 the land abutting the highway as a part of the estate conveyed in the
22 patent.

23 (b) A person claiming an interest in land that relies on the Act
24 of August 1, 1956 and PLO 1613 of the Secretary of the Interior bears
25 the burden of proof of showing that the patent from the United States
26 did not convey the land abutting the highway as a part of the estate
27 conveyed in the patent.

28 * Sec. 2. AS 19.05 is amended by adding a new section to read:

29 Sec. 19.05.112. AUTHORITY TO CONDEMN OR ACQUIRE CLAIMS TO

1 PRIVATE PROPERTY NECESSARY TO RESOLVE TITLE PROBLEMS. (a) When the
2 commissioner formally declares that it is in the best interests of the
3 state to resolve title problems, to permit access to an otherwise
4 isolated parcel, to consolidate land ownership, or to resolve other
5 problems determined by the commissioner to be not in the public inter-
6 est, the department may condemn or acquire land that was subject to
7 the Act of August 1, 1956 (70 Stat. 898) and to PLO 1613 of the Secre-
8 tary of the Interior (April 7, 1958) and that was formerly within a
9 right-of-way for highway purposes

10 (1) if the land within the right-of-way was conveyed by the
11 U.S. Bureau of Land Management to a person who was not at the time of
12 the conveyance the owner of the land otherwise abutting the highway;

13 (2) if the original patent from the United States described
14 the land, except for the land subject to the Act of August 1, 1956 and
15 to PLO 1613 of the Secretary of the Interior, as abutting on the
16 highway; and

17 (3) if the owner of the land otherwise abutting the highway
18 and the predecessors in interest of the owner of the land has ex-
19 exercised dominion and control over the entire parcel of land since the
20 original conveyance from the United States.

21 (b) The commissioner shall consider the action permitted under
22 (a) of this section on the request of the original grantee of the land
23 or the successor in interest of the original grantee of the property
24 who has exercised dominion and control over the entire parcel of land
25 since the original conveyance from the United States and on the deter-
26 mination of the commissioner that adverse claims against the land have
27 or will adversely affect the use of the land, access to the land, or
28 other considerations of the public interest.

29 (c) The commissioner may not use the authority granted under (a)

1 of this section to vacate a highway right-of-way. The commissioner
2 may reserve a right-of-way determined by the commissioner to be in the
3 public interest.

4 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
5 10.070(c).