

Offered: 4/12/85  
Referred: Judiciary and  
Finance

Original sponsors: Cotten and Marrou

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE  
2 CS FOR HOUSE BILL NO. 321 (Transportation)  
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 burden of proof in litigation  
7 arising out of patents issued for land that adjoins  
8 highway reservations created by PLO 601 and to the  
9 authority of the state to condemn or acquire claims  
10 to private property that are necessary to resolve  
11 title problems arising out of the conversion of PLO  
12 601 highway reservations to highway easements by PLO  
13 1613; and providing for an effective date."

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

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

16 Sec. 09.45.015. PRESUMPTION IN CERTAIN CASES. (a) A patent for  
17 land that was patented before April 7, 1958, and that, at the time a  
18 patent was issued, adjoined one of the highway reservations listed in  
19 section 1 of PLO 1613 of the Secretary of the Interior (April 7,  
20 1958), is presumed to have conveyed land up to the center-line of the  
21 highway subject to any highway reservation created by PLO 601 and any  
22 highway easement created by PLO 1613.

23 (b) The burden of proof in litigation involving land adjoining a  
24 highway reservation created by PLO 601 or a highway easement created  
25 by PLO 1613 is on the person who claims that a patent did not convey  
26 an interest in land up to the center-line of the highway.

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

28 Sec. 19.05.112. AUTHORITY TO CONDEMN OR ACQUIRE CLAIMS TO PRI-  
29 VATE PROPERTY NECESSARY TO RESOLVE TITLE PROBLEMS. (a) When the

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

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

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

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

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

28 (c) The commissioner may not use the authority granted under (a)  
29 of this section to vacate a highway right-of-way. The commissioner

1           may reserve a right-of-way determined by the commissioner to be in the  
2           public interest.

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