

SB

263

During Session, January - May:
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Senator Loren Leman

Sponsor Statement CS SB 263(Rules): Real Property Conveyances

This legislation would cure an otherwise obscure common law rule that has created a problem for Alaska landowners, including Alaska Native Claims Settlement Act (ANCSA) corporations. Changes in the Senate Judiciary Committee further narrow the effect of the legislation by specifically applying it to property conveyed under the Alaska Native Claims Settlement Act. **This language is further clarified in the Rules Committee Substitute by specifically referring to ANCSA real property rather than Native corporation real property, and defining that term in Sec. 2(b).**

Under the ANCSA, village corporations own the surface estate to lands conveyed under that law. Regional corporations own the subsurface estate. Some village corporations have conveyed some of their lands to shareholders. Those shareholders currently have no right to use or disturb the subsurface, and some may be technically trespassing on regional corporation property.

Regional Corporations would like to solve this problem by granting the Village Corporations a limited easement to disturb the subsurface for (in most cases) residential use, and have that easement then pass automatically to the resident.

The old common law rule allows this automatic pass through from the regional corporation to the village corporation to the shareholder to happen only if the village had originally conveyed the land to the shareholders by *warranty* deed. Unfortunately, the village corporations used *quitclaim* deeds. There is no practical reason to treat these two types of deeds differently for this purpose, and so the enclosed legislation solves the problem by allowing this automatic pass-through of so-called "after acquired rights" for ANCSA conveyed-property to occur regardless of which kind of deed is employed.

Senator Loren Leman

FREQUENTLY ASKED QUESTIONS ABOUT CS SB 263(Rules): REAL PROPERTY CONVEYANCES

- 1) ***What is the meaning of the phrase “in fee or in fee simple” in the proposed legislation?*** As Alaska law describes it, a quitclaim deed conveys “fee” title, (AS 34.15.040(b) while a warranty deed conveys “fee simple” title (AS 34.15.030(b). Thus, by saying that after-acquired property rights will automatically pass to the grantee whenever the prior conveyance was “fee or fee simple” title, the bill is saying that either a quitclaim or warranty deed will serve to pass after-acquired interests.
- 2) ***What is the difference between a quitclaim deed and a warranty deed?*** A quitclaim deed only passes whatever title (if any) that the grantor might possess, while the latter actually warrants that the grantor has fee simple title to the property.
- 3) ***How would this legislation solve the Native conveyance issue to which it is addressed?*** Under ANCSA, while village corporations own the surface estate to lands conveyed under that law, regional corporations own the subsurface estate. Because these village/s. areholder conveyances were almost always done by quitclaim deed, an easement granted now to the village corporation would not automatically pass to the individual shareholder grantees, unless the law were changed in the manner provided in the legislation.
- 4) ***How does Section 2 affect the legislation?*** Section 2 provides that the bill applies only to title or interest that is acquired after the legislation is enacted. The “title or interest” to which the section refers is the after-acquired interest or subsurface easement to be granted to the village corporations. That easement would be granted only after the bill is enacted, and therefore the bill would serve to pass that easement on to the shareholders.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 263(L&C)
 (S) Publish Date: 2/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Real Property Conveyances BRU _____
 Component _____
 Sponsor Senator Leman
 Requester Senate Labor & Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: SENATE LABOR & COMMERCE COMMITTEE Phone 465-4993
 Division _____ Date/Time _____
 Approved by: /s/ Senator Stevens, Chair Date 2/13/02
 Agency _____