



# LAWS OF ALASKA

1999

**Source**  
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**Chapter No.**  
94

## AN ACT

Providing that a person who grants certain conservation easements to the state or a municipality that provide public access for recreational purposes and the grantee of the easement are immune from tort liability, other than gross negligence or reckless or intentional misconduct, for damages to a person who uses the easement under certain conditions; relating to the vacation by the state or a municipality of rights-of-way acquired by the state under former 43 U.S.C. 932; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

**Approved by the Governor:** July 9, 1999  
**Actual Effective Date:** July 10, 1999

AN ACT

1 Providing that a person who grants certain conservation easements to the state or a  
2 municipality that provide public access for recreational purposes and the grantee of the  
3 easement are immune from tort liability, other than gross negligence or reckless or intentional  
4 misconduct, for damages to a person who uses the easement under certain conditions; relating  
5 to the vacation by the state or a municipality of rights-of-way acquired by the state under  
6 former 43 U.S.C. 932; and providing for an effective date.

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8 \* Section 1. AS 19.30.410 is amended to read:

9 **Sec. 19.30.410. Vacation of rights-of-way.** Notwithstanding another provision  
10 of law, the Department of Natural Resources, the Department of Transportation and  
11 Public Facilities, or another agency of the state may not vacate a right-of-way acquired  
12 by the state under former 43 U.S.C. 932 unless

13 (1) a reasonably comparable, established alternate right-of-way or

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1 means of access exists that is sufficient to satisfy all present and reasonably  
2 foreseeable uses;

3 (2) the right-of-way is within a municipality, the municipal assembly  
4 or council has requested the vacation, a reasonable alternative means of access is  
5 available, and the vacation is in the best interests of the state; or

6 (3) the vacation is approved by the legislature.

7 \* Sec. 2. AS 29.10.200 is amended by adding a new paragraph to read:

8 (59) AS 29.35.090(b) (certain vacations of rights-of-way prohibited).

9 \* Sec. 3. AS 29.35.090 is amended by adding a new subsection to read:

10 (b) Notwithstanding AS 29.40.160 or other provisions of law, a municipality  
11 may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932. This  
12 subsection applies to home rule and general law municipalities.

13 \* Sec. 4. AS 34.17 is amended by adding a new section to read:

14 **Sec. 34.17.055. Tort immunity from personal injuries or death arising out**  
15 **of the use of land subject to a conservation easement.** (a) In addition to the  
16 immunity provided by AS 09.65.200, an owner of land, a portion of which is subject  
17 to a conservation easement that is 50 feet or less in width, that has been granted to and  
18 accepted by the state or a municipality, and that provides public access for recreational  
19 purposes on the land subject to the conservation easement is not liable in tort, except  
20 for an act or omission that constitutes gross negligence or reckless or intentional  
21 misconduct, for damages to a person who uses the easement to enter onto or remain  
22 on the land if

23 (1) the person had no responsibility to compensate the owner for the  
24 person's use of the easement or the land; and

25 (2) the damages arise out of the person's use of the easement for  
26 recreational purposes on the land.

27 (b) The immunity under (a) of this section extends to the grantee of the  
28 conservation easement providing public access to the land for recreational purposes.

29 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).