

ALASKA STATE LEGISLATURE

Education Committee
Judiciary Committee
Transportation Committee



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HB 93 - An Act Related to Railroad Right of Way
Sponsor Statement

House Bill 93 addresses the confiscation of landowner property rights under the Alaska Railroad Transfer Act (ARTA) (45 U.S.C.1201 et seq.). Hundreds of Alaskans are facing challenges resulting from the Alaska Railroad Corporation's Right of Way Residential Use Permit Program charging fees and/or barring access to property owners whose property the Right of Way transverses or intersects. Vested property rights of Alaskan homesteaders were taken without compensation when the Alaska Railroad and the US Government implemented Section 606 of the ARTA (45 U.S.C.1205).

HB93 restores the adjacent landowners to their beneficial right of ownership in their lands, while at the same time preserving the rights of the Alaska Railroad to conduct safe railroad operations. HB93 puts the parties in the position they would have been in, had the 1983 Railroad Transfer Act been implemented properly.

HB93 provides guidance to the Alaska Railroad in how it should exercise its discretion in the administration of its easement that it received from the federal government under ARTA. The Railroad Corporation continues to hold legal title to the right of ways. No Railroad property is being taken and this bill does not impair any existing Railroad contracts. To mitigate the negative impacts that the Railroad's recording of its exclusive use easements may have had on the title of adjacent landowners, HB 93 also requires the Railroad to record a *Notice of Adjacent Landowner Rights*, which describes the rights of adjacent landowners under HB93. Areas affected by Alaska Railroad Corporation Right of Way permit include Kenai Peninsula, Anchorage, Mat-Su Valley and the Interior.

Specifically, HB93 instructs the Railroad Corporation to not block underlying property owners' access to their own land when such access poses no threat to safe railroad operations. HB93 further instructs that the Railroad Corporation may not charge landowners for continued access to their land in these situations. This provision is necessary to correct the Railroad Corporation's current Residential Use Permit system where the Railroad is charging existing landowners to continue to have access to their own property. The railroad would maintain its right to object to all uses that unreasonably interfere with railroad operations.

The Alaska Railroad Corporation is an instrumentality of the state, and unlike private parties, it is subject to the jurisdiction and oversight of the Alaska Legislature. Through HB93, the legislature proposes minimal oversight, by directing the Railroad in the manner in which it manages its easement.