

ACT OF JULY 24, 1947
(48 USC 321 d)

"In all patents for lands hereafter taken up, entered, or located in the Territory of Alaska, and in all deeds hereafter conveying any lands to which it may have reacquired title in said Territory not included within the limits of any organized municipality, there shall be expressed that there is reserved, from the lands described in said patent or deed, a right of way thereon for roads, roadways, highways, tramways, trails, bridges, and appurtenant structures constructed or to be constructed by or under the authority of the United States or any State created out of the Territory of Alaska. When a right of way reserved under the provisions of Sections 321a 321d of this title is utilized by the United States or under its authority, the head of the agency in charge of such utilization is authorized to determine and make payment for the value of the crops thereon if not harvested by the owner, and for the value of any improvements, or for the cost of removing them to another site, if less than their value."

June 30, 1932, c. 320, Sec. 5, as added July 24, 1947, c. 313, 61 Stat. 418. (For legislative history and comment, see 1947 U. S. Code Cong. Service, p. 1352.)

invalid for failure of the Secretary to make finding of fact that the public interest necessitated tolls, since to all administrative regulations purporting to be made under authority legally delegated there attaches a presumption of the existence of facts justifying the specific exercise of such authority, nor as creating an unreasonable classification because of failure to impose tolls on passenger carriage, such being a proper and reasonable classification. *Rogge v. U. S., C.C.A. Alaska 1912, 125 F.2d 800, certiorari denied 63 S.Ct. 54, 317 U.S. 650, 87 L.Ed. 523.*

Freight haulers could not challenge the validity of the toll imposed on use of Richardson Highway in Alaska for transportation of freight on the ground that this section, authorizing the imposition of such toll, made no provision for its deposit in United States Treasury, since in the absence of such provision, the Secretary of the Interior would hold the tolls as trustee for the United States. *Id.*

The fact that one of the purposes in authorizing Secretary of Interior to impose tolls on the transportation of

freight over the Richardson Highway in Alaska was the elimination of competition with government railroad was immaterial in determining validity of imposition of tolls since Congress has plenary power over territories. *Id.*

7. — Power of secretary

This section, authorizing the Secretary of the Interior to fix and collect tolls for the use of Alaskan highways where deemed necessary and advisable, authorized the Secretary to impose such tolls and did not contemplate that Congress should name the roads on which tolls were to be imposed leaving to the Secretary the authority only to fix and collect tolls. *Rogge v. U. S., C.C.A. Alaska 1912, 125 F.2d 800, certiorari denied 63 S.Ct. 54, 317 U.S. 650, 87 L.Ed. 523.*

The power of the Secretary of the Interior to impose tolls on the use of highways in Alaska maintained and operated at federal expense was not affected by later creation of Alaskan legislature which was especially precluded from legislating with reference to such highways. *Id.*

§ 321c. Same; submission of appropriations

All estimates of appropriations for the construction and maintenance of roads and trails and other works, as submitted prior to June 30, 1932, by the Secretary of the Army, shall after such date be submitted by the Secretary of the Interior. June 30, 1932, c. 320, § 4, 47 Stat. 446; July 26, 1947, c. 343, Title II, § 205(a), 61 Stat. 501.

Historical Note

Change of Name. The Department of War was changed to Secretary of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of Act July 24, 1917, cited to text.

§ 321d. Same; reservation of right-of-way for roads, etc., in patents and deeds

In all patents for lands hereafter taken up, entered, or located in the Territory of Alaska, and in all deeds by the United States hereafter conveying any lands to which it may have reacquired title in said Territory not included within the limits of any organized municipality, there shall be expressed that there is reserved, from the lands described in said patent or deed, a right-of-way thereon for roads, roadways, highways, tramways, trails, bridges, and appurtenant structures constructed or to be constructed by or under the authority of the United States or of any State created out of the Territory of Alaska. When a right-of-way reserved under the provisions of sections 321a-321d of this title is utilized by the United

States or under its authority, the head of the agency in charge of such utilization is authorized to determine and make payment for the value of the crops thereon if not harvested by the owner, and for the value of any improvements, or for the cost of removing them to another site, if less than their value. June 30, 1932, c. 320, § 5, as added July 24, 1947, c. 313, 61 Stat. 418.

Mitchell

Historical Note

Congressional Comments. For legislative history and purpose of Act July 24, 1917, cited to text, see 1917 U.S. Code Cong. Service, p. 1332.

§ 322. Location and construction of roads and trails

The Secretary of the Interior, or such officer, or officers, as may be designated by him, shall have the power, and it shall be his duty, upon his own motion or upon petition, to locate, lay out, construct, and maintain wagon roads and pack trails from any point on the navigable waters of Alaska to any town, mining or other industrial camp or settlement, or between any such town, camps, or settlements therein, if in his judgment such roads or trails are needed and will be of permanent value for the development of Alaska; but no such road or trail shall be constructed to any town, camp, or settlement which is wholly transitory or of no substantial value or importance for mining, trade, agricultural, or manufacturing purposes. Jan. 27, 1903, c. 277, § 2, 33 Stat. 616; May 14, 1906, c. 2458, § 2, 34 Stat. 192; June 30, 1932, c. 320, § 1, 47 Stat. 446.

Historical Note

Consolidation. Section is comprised of the third sentence of section 2 of Act Jan. 27, 1903, cited to text. Other provisions of said section 2 of Act Jan. 27, 1903, cited to text, are classified to sections 323-325 of this title.

1932 Amendment. Act June 30, 1932, cited to text, transferred the powers and duties of the board of road commissioners to the Secretary of the Interior. See section 321a of this title.

1906 Amendment. Act May 14, 1906, cited to text, re-enacted section without change.

§ 323. Same; maps, plans, and specifications; contracts for permanent work

The Secretary of the Interior, or such officer, or officers, as may be designated by him, shall prepare maps, plans, and specifications of every road or trail he may locate and lay out, and whenever more than \$20,000 in the aggregate, shall have to be expended upon the actual construction of any road or section of road designed to be permanent, contract for the work shall be let by him to the lowest responsible bidder, upon sealed bids, after due notice, under rules and regulations to be prescribed by him. He may reject any bid if he deems the same unreasonably high or if he finds that there is a combination among bidders. In case no responsible and reliable bid can be secured, then the work may be carried on with local and



LAWS OF ALASKA

1966

Source:

HB 415 am

Chapter No.

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AN ACT

Relating to the disposition of certain legal interests in land by the State of Alaska; and providing for an effective date.

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

* Section 1. PURPOSE. This Act is intended to alleviate the economic hardship and physical and mental distress occasioned by the taking of land, by the State of Alaska, for which no compensation is paid to the persons holding title to the land. This practice has resulted in financial difficulties and the deprivation of peace of mind regarding the security of one's possessions to many citizens of the State of Alaska, and which, if not curtailed by law, will continue to adversely affect citizens of this state. Those persons who hold title to land under a deed or patent which contains a reservation to the state by virtue of the Act of June 30, 1932, ch. 320, sec. 5, as added July 24, 1947, ch. 313, 61 Stat. 418, are subject to the hazard of having the State of Alaska take their property without compensation because all patents or deeds containing the reservation required by that federal Act reserve to the United States, or the state created out of the Territory of Alaska, a right-of-way for

roads, roadways, tramways, trails, bridges, and appurtenant structures either constructed or to be constructed. Except for this reservation the State of Alaska, under the Alaska constitution and the constitution of the United States, would be required to pay just compensation for any land taken for a right-of-way. It is declared to be the purpose of this Act to place persons with land so encumbered on a basis of equality with all other property holders in the State of Alaska, thereby preventing the taking of property without payment of just compensation as provided by law, and in the manner provided by law.

* Sec. 2. TAKING OF PROPERTY UNDER RESERVATION VOID. After the effective date of this Act, no agency of the state may take privately-owned property by the election or exercise of a reservation to the state acquired under the Act of June 30, 1932, ch. 320, sec. 5, as added July 24, 1947, ch. 313, 61 Stat. 418, and taking of property after the effective date of this Act by the election or exercise of a reservation to the state under that federal Act is void.

* Sec. 3. PROSPECTIVE APPLICATION. This Act shall not be construed to divest the state of, or to require compensation by the state for, any right-of-way or other interest in real property which was taken by the state, before the effective date of this Act, by the election or exercise of its right to take property through a reservation acquired under the Act of June 30, 1932, ch. 320, sec. 5, as added July 24, 1947, ch. 313, 61 Stat. 418.

* Sec. 4. SHORT TITLE. This Act may be cited as the Right-of-Way Act of 1966.

* Sec. 5. EFFECTIVE DATE. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

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Approved by Governor April 13, 1966
Actual effective date: April 14, 1966