

Sponsor Statement for SB 263

After Acquired Title in Real Property

An Act relating to the subsequent acquisition of title to, or an interest in, real property by a person to whom the property has purportedly been granted in fee or fee simple; and providing for an effective date.

Released: April 8, 2002

Contact: Senator Loren Leman's office at (907) 465-5149

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.