

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1438

H. P. 1118

House of Representatives, April 10, 1969

Reported by Mr. Wood from Committee on Highways. Printed under
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BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Relocation Assistance in State Highway Projects.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, a substantial number of families would be displaced or relocated, or both, prior to the normally effective date of this legislation; and

Whereas, denial of increased benefits to those displaced persons would create an inequity; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 23, c. 3, sub-c. V, additional. Chapter 3 of Title 23 of the Revised Statutes is amended by adding a new subchapter V, to read as follows:

SUBCHAPTER V
RELOCATION ASSISTANCE

§ 211. Purpose

The prompt and equitable relocation and reestablishment of persons, businesses, farm operations and nonprofit organizations displaced as a result of

state or state aid highway projects is necessary to insure that a few individuals do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. Relocation payments and advisory assistance are to be made available to all persons so displaced in accordance with this subchapter.

§ 212. Definitions

As used in sections 211 to 220, the following words and phrases shall have the following meanings:

1. Average annual net earnings. "Average annual net earnings" shall mean $\frac{1}{2}$ of any net earnings of the business or farm operation before federal or state income taxes during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such 2-year period.

2. Business. "Business" shall mean any lawful activity conducted primarily:

- A. For the purchase and resale, manufacture, processing or marketing of products, commodities or any other personal property;
- B. For the sale of services to the public; or
- C. By a nonprofit organization.

3. Displaced person. "Displaced person" shall mean any person caused to be moved from real property on or after the effective date of this Act as a result of the acquisition or reasonable expectation of acquisition of such real property, which is subsequently acquired, in whole or in part, for a state or state aid highway or as the result of the acquisition for a state or state aid highway of other real property on which such person conducts a business or farm operation.

4. Existing patronage. "Existing patronage" shall mean the average dollar volume of business transacted during the 2 taxable years immediately preceding the year in which the business is displaced.

5. Family. "Family" shall mean 2 or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption or legal guardianship.

6. Farm operation. "Farm operation" shall mean any activity conducted solely or primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

7. Federal agency. "Federal agency" shall mean any department, agency or instrumentality in the executive branch of the Federal Government and any corporation wholly owned by the government.

8. **Moving expense.** "Moving expense" shall mean the cost of dismantling, disconnecting, crating, loading, insuring, temporary storage, transporting, unloading, reinstalling of personal property, including service charges in connection with effecting such reinstallations, exclusive of the cost of any additions, improvements, alterations or other physical changes in or to any structure in connection therewith, and necessary temporary lodging and transportation shall not exceed the cost of moving 50 miles.

9. **Nonprofit organization.** "Nonprofit organization" shall mean any private entity engaged in a business, professional or institutional activity on a nonprofit basis possessed with tangible personalty for the carrying on of the business, profession or institutional activity.

10. **Owner.** "Owner" shall mean an individual or individuals:

A. Owning, legally or equitably, the fee simple estate, a life estate, a 99-year lease, or other proprietary leasehold interest in the property;

B. The contract purchaser of any of the estates or interests enumerated in paragraph A; or

C. Who within one year immediately preceding the date on which he was required to move has succeeded to any of the estates or interests enumerated in paragraph A by devise, bequest, inheritance or operation of law and in the even of acquisition of ownership by any of the methods described in this subsection, the tenure of the succeeding owner shall include the tenure of the preceding owner.

11. **Person.** "Person" shall mean:

A. Any individual, partnership, corporation or association which is the owner of a business;

B. Any owner, part owner, tenant or sharecropper who operates a farm;

C. An individual who is the head of a family; or

D. An individual not a member of a family.

12. **Project.** "Project" shall mean any highway construction undertaken by the State of Maine by its State Highway Commission on a state or state aid highway.

13. **Relocation advisory assistance.** "Relocation advisory assistance" shall mean the preparation, maintenance and dissemination of information to displaced persons relative to state and federal housing, social welfare and business assistance acts, lists of public carriers and rates, lists of replacement dwellings, public transportation schedules, routes and cost, maps showing the location of schools, parks, playgrounds and related detail, and current data for costs relative to utility deposits, closing costs, down payments, interest rates, terms and such measures and services as those described in 23 U. S. Code, section 508 and all other Act amendatory thereof and supplementary thereto.

14. Relocation payment. "Relocation payment" shall mean actual reasonable moving expense, or the optional moving expense allowance, or dislocation allowance.

15. State agency. "State agency" shall mean any department, agency or instrumentality in the executive branch of the State Government or any agency designated by the commission to administer the relocation assistance program authorized by this subchapter.

§ 213. Relocation advisory assistance

The commission is authorized to provide relocation advisory assistance to any displaced person.

§ 214. Relocation payments

The commission is authorized to compensate a displaced person for his actual and reasonable moving expense and in lieu thereof the displaced person may elect one of the following options:

1. Dwelling. Any displaced person who moves from a dwelling may elect to receive a moving expense allowance determined according to a schedule established by the commission not to exceed \$200 and dislocation allowance of \$100.

2. Business-farm operation. Any displaced person who moves or discontinues his business or farm operation may elect to receive a fixed relocation payment in an amount equal to the average annual net earnings of the business of farm operation of \$5,000, whichever is the lesser. In the case of a business, this payment shall not be made unless the business cannot be relocated without a substantial loss of existing patronage and is not part of a commercial enterprise having at least one other establishment not being acquired by the State and which is engaged in the same or similar business.

§ 215. Replacement housing allowance

1. Housing allowance. In addition to a relocation payment a displaced owner-occupant of a one, 2 or 3-family dwelling actually owned and occupied by the owner for not less than one year immediately prior to the initiation of negotiations for the acquisition shall be compensated by a sum not to exceed \$5,000. Such amount shall be that, if any, which, when added to the acquisition payment, equals the average price of a comparable dwelling determined to be decent, safe and sanitary, adequate to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market. Such allowance shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which he is required to move from the dwelling acquired for the project.

2. Rental allowance. Any individual or family displaced from any dwelling not eligible for a housing allowance but has actually and lawfully occupied such dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling may be compensated by a rental

allowance not to exceed \$1,500. The rental allowance shall be paid only to such displaced individual or family that leases, rents or makes the down payment on the purchase of, a decent, safe and sanitary dwelling adequate to accommodate such individual or family in an area not generally less desirable in regard to public utilities and public and commercial facilities.

Eligibility for, and determination of the amount of, the rental allowance shall be determined by and in accordance with such rules and regulations as may be adopted by the commission pursuant to section 219.

§ 216. Transfer expense allowance

In addition to amounts otherwise authorized by this subchapter, the owner of real property acquired for a project shall be compensated for reasonable and necessary expenses incurred for:

1. Expenses in conveying. Recording fees, transfer taxes and any similar expenses incidental to conveying the property;

2. Penalty costs. Penalty costs for prepayment of any mortgage entered into in good faith encumbering such real property if such mortgage is on record or has been filed for record under applicable law by the date of final approval by the State of the project location according to the commission record; and

3. Taxes. The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the State, or the effective date of possession by the State, whichever is earlier.

§ 217. Administration

The State Highway Commission shall carry out the functions of this subchapter either with its personnel or through any federal, state or municipal governmental agency having an established organization for conducting relocation assistance programs; and is authorized and empowered to make all contracts and do all things necessary to fulfill the intent and purposes of this subchapter.

§ 218. Hardship

If the commission deems a hardship case exists, it may make any payment authorized by sections 214, 215 and 216, in whole or in part to the displaced person affected in advance of moving, conveying or other acquisition of title or possession by the State.

§ 219. Rules and regulations

The commission may adopt rules and regulations consistent with this subchapter as it deems necessary or appropriate to carry out this subchapter and to include the standards of "decent, safe and sanitary."

§ 220. Appeal

If the commission is unable to negotiate any payment authorized under this subchapter at what it deems to be a reasonable amount, either the commission or the displaced persons, or both, may apply to the Land Damage Board in

writing for a determination and assessment. The proceedings shall then be the same as in condemnation proceedings under subchapter III.

§ 221. Limitation

Nothing contained in this subchapter shall be construed as creating in any eminent domain proceeding an element of damages not in existence on the date of enactment hereof.

§ 222. Property management

The commission may lease, let or rent to a displaced person property taken or acquired pending advantageous use for highway purposes and may renovate and maintain the property pending such advantageous use. The proceeds from leasing, letting or renting such property shall be credited to the funds from which payment was made for the acquisition.

Sec. 2. R. S., T. 23, §§ 65-70, repealed. Sections 65 to 70 of Title 23 of the Revised Statutes, as enacted by section 1 of chapter 433 of the public laws of 1965, are repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.