

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1486

S. P. 503

In Senate, March 17, 1971

Referred to Committee on Transportation. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Greeley of Waldo.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Real Property Acquisition for Highways.

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

Sec. 1. R. S., T. 23, § 153-A, additional. Title 23 of the Revised Statutes is amended by adding a new section 153-A to read as follows:

§ 153-A. Housing for displaced persons

1. **Construction.** Where a proposed highway project cannot proceed to actual construction because replacement housing is not available to displaced persons and cannot otherwise be made available, the commission on behalf of the State of Maine may acquire by purchase such real property as may be necessary to construct new housing thereon, rehabilitate existing housing thereon or move existing housing thereon.

2. **Expense.** Acquisition of necessary replacement housing sites, rehabilitation, relocation or construction of replacement housing shall be an expense incidental to construction or reconstruction of a highway and shall not be deemed to be highway right-of-way and need not be within the limits of a project.

3. **Housing.** The commission shall construct, relocate or rehabilitate on any housing sites acquired under subsection 1 such housing as may be necessary for any person displaced by any highway construction or reconstruction undertaken by the commission.

4. **Interest of State.** The commission on behalf of the State of Maine may sell and convey the interest of the State acquired as replacement sites with the improvements thereon and may lease such interests in such property pending sale.

Sec. 2. R. S., T. 23, §§ 154-A to 154-F, additional. Title 23 of the Revised Statutes is amended by adding 6 new sections, 154-A to 154-F, to read as follows:

§ 154-A. Fair market value adjustment

Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining just compensation for the property.

§ 154-B. Coercive action

In no event shall the commission either advance the time of condemnation, or defer negotiations or condemnation or take any other action coercive in nature, in order to compel an agreement on the price to be paid for property or property rights.

§ 154-C. Uneconomic remnants

If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the commission shall offer to acquire the entire property and such remnant may be acquired by purchase or condemnation.

§ 154-D. Notice to vacate

No person lawfully occupying real property shall be required to move from a dwelling, or move his business or farm operation without at least 90 days written notice from the commission of the date by which such move is required.

§ 154-E. Improvements

1. Improvements. For the purpose of determining the just compensation to be paid for any building, structure or other improvement acquired, such building, structure or other improvement shall be deemed to be part of the real property acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure or improvement at the expiration of his term, and the fair market value which such building, structure or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor in accordance with the terms and provisions otherwise provided in this section.

2. Duplication. Payments under this section shall not result in duplication of any payments otherwise authorized by this subchapter. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvement of the tenant. In consideration for any such payment, the tenant shall assign, transfer and release to the State all his right, title and

interest in and to such improvements. Nothing in this section shall be construed to deprive the tenant of any rights to reject payment under this section and to obtain payment for such property interests in accordance with applicable law, other than this section.

§ 154-F. Income tax

Payments received under this subchapter shall not be considered income for the purposes of the Internal Revenue Code.

Sec. 3. R. S., T. 23, § 157, amended. The 2nd paragraph of section 157 of Title 23 of the Revised Statutes, as amended by chapter 436 of the public laws of 1967, is amended to read as follows:

The court shall determine the same by a verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest where such is due, and for costs in favor of the party entitled thereto; except that if the commission appeals and if the commission does not prevail, interest where such is due ~~and costs~~ shall be paid by the commission and the owner or owners shall also be reimbursed by the commission for ~~a~~ his reasonable ~~attorney's fee costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees actually incurred because of the acquisition litigation.~~ attorney's fee costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees actually incurred because of the acquisition litigation.

Sec. 4. R. S., T. 23, §§ 160 and 161, additional. Title 23 of the Revised Statutes is amended by adding 2 new sections, 160 and 161, to read as follows:

§ 160. Property management

Any property taken or acquired for highway purposes may be leased, let or rented by the commission to a displaced person pending advantageous use for highway purposes. The commission may renovate and maintain property pending such advantageous use. The proceeds from leasing, letting or renting such property shall be credited to the fund from which payment was made for the acquisition. The consideration paid by the tenant for occupancy shall not exceed the fair rental value of the property based on short term occupation.

§ 161. Incidental expense payments

1. Reimbursement. The commission, as soon as practicable after the date of payment of just compensation, shall reimburse the owner from whom land or rights in land were acquired for highway purposes, to the extent the commission deems fair and reasonable, for expenses such owner necessarily incurred for:

- A. Recording fees, transfer taxes and similar expenses, if any, incidental to conveying such property to the State;
- B. Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and
- C. The pro rata portion of real property taxes paid which are allowable to a period subsequent to the date of vesting title in the State, or the effec-

tive date of possession of such real property by the State, whichever is earlier.

2. **Determination.** Any determination by the commission in the administration of this section shall be final and nothing in this section shall be construed to give any person a cause of action in the Land Damage Board or Superior Court.

STATEMENT OF FACT

The purpose of this bill is to bring our land acquisition laws in Title 23 into conformity with Public Law 91-646, 91st Congress, the Uniform Relocation Assistance and Land Acquisition Act of 1970 signed by the President on January 2, 1971 and thus permit the continued joint State-Federal relationship in our highway program.