

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1502

S. P. 506

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 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. VII, additional. Chapter 3 of Title 23 of the Revised Statutes is amended by adding a new subchapter VII, to read as follows:

**SUBCHAPTER VII
RELOCATION ASSISTANCE**

§ 241. 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 individ-

uals 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.

§ 242. Definitions

As used in this subchapter, 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 or during such other period as the commission determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period.

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

A. For the purchase, sale, lease and rental of personal and real property and for the 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; or

D. Solely for the purposes of section 244 for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

3. Displaced person. "Displaced person" shall mean any person who on or after the effective date of this Act moves from real property, or moves his personal property from real property as the result of the acquisition of such real property in whole or in part, or as the result of the written order of the commission to vacate real property acquired in whole or in part, for a state or state aid highway; and solely for the purposes of section 244, as a result of the acquisition of or the written order of the commission to vacate other real property on which such person conducts a business or farm operation, for such program or project.

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 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, including timber, 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, except the National Capitol Housing Authority, any wholly owned Government corporation, except the District of Columbia Redevelopment Land Agency and the Architect of the Capitol, the Federal Reserve Banks and branches thereof.

8. Mortgage. "Mortgage" shall mean such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of this State, together with the credit instruments, if any, secured thereby.

9. Person. "Person" shall mean any individual, partnership, corporation or association.

10. 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.

11. State agency. "State agency" shall mean any department, agency or instrumentality of this State or any political subdivision of this State.

§ 243. Relocation assistance advisory services

1. Relocation assistance advisory program. Whenever the acquisition of real property for a project will result in the displacement of any person on or after the effective date of this Act, the commission shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection 2. If the commission determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, the commission may offer such person relocation advisory services under such program.

2. Program to include. Each relocation assistance advisory program required by subsection 1 shall include such measures, facilities or services as may be necessary or appropriate in order to:

A. Determine the need, if any, of displaced persons for relocation assistance;

B. Provide current and continuing information on the availability, prices and rentals of comparable decent, safe and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

C. Assure that, within a reasonable period of time, prior to displacement there will be available, to the extent that can reasonably be accomplished, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of

the families and individuals displaced, decent, safe and sanitary dwellings, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment;

D. Assist a displaced person from his business or farm operation in obtaining and becoming established in a suitable replacement location;

E. Supply information concerning federal and state housing programs, disaster loan programs and other federal or state programs offering assistance to displaced persons; and

F. Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

§ 244. Moving and related expenses

1. Payments. Whenever the acquisition of real property for a project will result in the displacement of any person on or after the effective date of this Act, the commission shall make a payment to any displaced person, upon proper application on forms approved by the commission, for:

A. Actual reasonable expenses in moving himself, his family, business, farm operation or other personal property;

B. Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the commission; and

C. Actual reasonable expenses in searching for a replacement business or farm.

2. Moving expense allowance. Any displaced person eligible for payments under subsection 1 who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection 1 may receive a moving expense allowance, determined according to a schedule established by the commission, not to exceed \$300 and a dislocation allowance of \$200.

3. Fixed payment. Any displaced person eligible for payments under subsection 1 who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1 may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than \$2,500 nor more than \$10,000. In the case of a business no payment shall be made under this subsection unless the commission is satisfied that the business:

A. Cannot be relocated without a substantial loss of its existing patronage, and

B. Is not part of a commercial enterprise having at least one other estab-

ishment not being acquired by the State, which is engaged in the same or similar business.

§ 244-A. Replacement housing for home owner

1. Owner. In addition to payments otherwise authorized, the commission shall make an additional payment not in excess of \$15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

A. The amount, if any, which when added to the acquisition cost of the dwelling acquired by the State equals the reasonable cost of a comparable replacement dwelling which is a decent, safe and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this paragraph shall be made in accordance with standards established by the commission.

B. The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the State was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

C. Reasonable expenses incurred by such displaced person for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

2. Replacement dwelling. The additional payment authorized by subsection 1 shall be made only to such displaced person who purchases and occupies a replacement dwelling which is decent, safe and sanitary not later than the end of the one year period beginning on the date on which he receives from the State final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

3. Mortgage insurance protection. The commission is authorized to negotiate with the Federal Government for any mortgage insurance protection available to a displaced person from any federal agency authorized upon application by a mortgagee, to insure any mortgage on a comparable replacement dwelling executed by a displaced person assisted under this section.

§ 244-B. Replacement housing for tenants and certain others

In addition to amounts otherwise authorized by this subchapter, the commission shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 244-A which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either :

1. Lease or rent. The amount necessary to enable such displaced person to lease or rent for a period not to exceed 4 years, a decent, safe and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed \$4,000, or,

2. Purchase. The amount necessary to enable such person to make a down payment, including incidental expenses described in section 244-A, subsection 1, paragraph C, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed \$4,000, except that if such amount exceeds \$2,000, such person must equally match any such amount in excess of \$2,000, in making the down payment.

§ 245. 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 purpose of this chapter.

§ 245-A. Hardship

If the commission deems a hardship case exists, it may make any payment authorized by this subchapter, 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.

§ 245-B. 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."

§ 246. 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.

§ 247. Limitation

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

Sec. 2. R. S., T. 23, §§ 211-222, repealed. Sections 211 to 222 of Title 23 of the Revised Statutes, as enacted by section 1 of chapter 207 of the public laws of 1969, are repealed.

Sec. 3. Retroactive. This Act shall be retroactive to January 2, 1971, for the purpose of providing the increased benefits to displaced persons caused by projects initiated after that date.

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

STATEMENT OF FACT

The purpose of this bill is to bring our Relocation Assistance Law enacted by the 104th Legislature into conformity with Public Law 91-646, 91st Congress, the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 signed by the President on January 2, 1971 and thus permit the continued joint State-Federal relationship in our highway program.