

§ 34.60.010

PROPERTY

312

Administrative Code. — For relocation assistance services, see 17 AAC 81.

Sec. 34.60.010. Purpose. The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of federally assisted programs in order that the displaced persons will not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. (§ 1 ch 41 SLA 1971)

Revisor's notes. — Enacted as AS 44.81.010. Renumbered in 1971.

NOTES TO DECISIONS

Cited in State v. Ness, 516 P.2d 1212 (Alaska 1973).

Collateral references. — 40 Am. Jur. 2d, Housing Laws and Urban Redevelopment, § 25.

Validity, construction, and application of state relocation assistance laws. 49 ALR4th 491.

Sec. 34.60.020. State agencies to establish program. State agencies shall establish and provide the means for implementing a program providing fair and reasonable relocation and other payment for persons displaced as a result of federally assisted activities undertaken by state agencies, to carry out relocation assistance programs for persons displaced, and to provide payments to persons as a result of acquisition of real property for activities of state agencies. (§ 1 ch 41 SLA 1971)

Revisor's notes. — Enacted as AS 44.81.020. Renumbered in 1971.

Sec. 34.60.030. Administration of program. In order to prevent unnecessary expenses and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under this chapter, state agencies may enter into contracts with any individual, firm, association, or corporation for services in connection with relocation assistance programs, or may carry out its functions under this chapter through any federal or state governmental agency or instrumentality having an established organization for conducting relocation assistance programs. (§ 1 ch 41 SLA 1971)

Revisor's notes. — Enacted as AS 44.81.030. Renumbered in 1971.

Sec. 34.60.040. Relocation payments. (a) When the acquisition of real property for a federally assisted program or project undertaken by a state agency will result in the displacement of a person, the state agency responsible for the program or project shall make payment to the displaced person, upon proper application as approved by the state agency, for

- (1) actual reasonable expenses in moving a person, the person's family, business, farm operation, or other personal property;
- (2) 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 the property as determined by the state agency; and
- (3) actual reasonable expenses in searching for a replacement business or farm.

313

(b)
from
place
allow
(c)
from
auth
may
the b
more
one-l
incor
whic
proj
estal
oper
a bu
stis
(1
(2
bein
or si
(3
of th
(d
busi
expe
§ 1

Re
numl

S
men
pay
actu
of n
the
(1

by t
is a
is re
the
in s
pay
(2
inte
the
acq
lien
acq
(3
ing
not

(b) A displaced person eligible for payments under (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in place of payments authorized by (a) of this section may receive a moving expense allowance, determined according to a schedule established by the state agency.

(c) A displaced person eligible for payments under (a) of this section who is displaced from a place of business or from a farm operation and who elects to accept the payment authorized by this subsection in place of the payment authorized by (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that this payment shall not be less than \$1,000 or more than \$20,000. For purposes of this subsection, "average annual net earnings" means one-half of the net earnings of the business or farm operation, before federal and state income taxes, during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for the project, or during any other period the state agency determines to be more equitable for establishing the earnings, and includes any compensation paid by the business or farm operation to the owner, spouse, or dependents during the applicable period. In the case of a business, a payment may not be made under this subsection unless the state agency is satisfied that the business

(1) cannot be relocated without a substantial loss of its existing patronage;

(2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the state agency or by the United States, which is engaged in the same or similar business; and

(3) is not an enterprise whose sole business on the real property acquired is the rental of the real property to others.

(d) In addition to the moving expenses allowed under this section, a displaced farm or business may receive a payment, not to exceed \$10,000, for the actual reasonable expenses necessary to reestablish the operation at a new site. (§ 1 ch 41 SLA 1971; am § 1 ch 54 SLA 1989)

Revisor's notes. — Enacted as AS 44.81.040. Re-numbered in 1971.

Sec. 34.60.050. Replacement housing for homeowners. (a) In addition to payments otherwise authorized by this chapter, the state agency shall make an additional payment not to exceed \$22,500, to a displaced person who is displaced from a dwelling actually owned and occupied by the person for not less than 180 days before the initiation of negotiations for the acquisition of the property. This additional payment must include the following elements:

(1) the amount, if any, that, when added to the acquisition cost of the dwelling acquired by the state agency, equals the reasonable cost of a comparable replacement dwelling that is a decent, safe, and sanitary dwelling adequate to accommodate the displaced person, is reasonably accessible to public services and places of employment, and is available on the private market; all determinations required to carry out this paragraph shall be made in accordance with standards established by the state agency making the additional payment;

(2) the amount, if any, that will compensate the displaced person for any increased interest costs that the displaced person is required to pay for financing the acquisition of the comparable replacement dwelling; this amount may be paid only if the dwelling acquired by the state agency was encumbered by a bona fide mortgage that was a valid lien on the dwelling for not less than 180 days before the initiation of negotiations for the acquisition of the dwelling; and

(3) reasonable expenses incurred by the 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.

(b) The additional payment authorized by (a) of this section may be made only to a displaced person who purchases and occupies a replacement dwelling that is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which the person receives from the state agency final payment of all costs of the acquired dwelling, or the date on which the person moves from the acquired dwelling, whichever is the later date. (§ 1 ch 41 SLA 1971; am § 2 ch 54 SLA 1989)

Revisor's notes. — Enacted as AS 44.81.050. Renumbered in 1971.

Sec. 34.60.060. Replacement housing for tenants and others. In addition to amounts otherwise authorized by this chapter, the state agency shall make a payment to or for a displaced person displaced from a dwelling, who is not eligible to receive a payment under AS 34.60.050, if the dwelling was actually and lawfully occupied by the displaced person for not less than 90 days before the initiation of negotiations for acquisition of the dwelling. The payment must be either

(1) the amount necessary to enable the displaced person to lease or rent for a period not to exceed three years and six months, a decent, safe, and sanitary dwelling of standards adequate to accommodate the displaced person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to the person's place of employment, but not to exceed \$5,250; or

(2) the amount necessary to enable the displaced person to make a down payment, including incidental expenses described in AS 34.60.050(a)(3), on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate the displaced person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed \$5,250. (§ 1 ch 41 SLA 1971; am § 3 ch 54 SLA 1989)

Revisor's notes. — Enacted as 44.81.060. Renumbered in 1971.

Sec. 34.60.070. Expenses incidental to transfer of property. The state agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the department considers fair and reasonable, for expenses necessarily incurred for

(1) recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the state agency;

(2) penalty costs for prepayment of a preexisting recorded mortgage entered into in good faith encumbering the real property, if the mortgage was a valid lien on the property for not less than 180 days before the initiation of negotiations for the acquisition of the property; and

(3) the pro rata portion of real property taxes paid that are allocable to a period subsequent to the date of vesting title in the state, or the effective date of possession of the real property by the state agency, whichever is the earlier. (§ 1 ch 41 SLA 1971)

Revisor's notes. — Enacted as 44.81.070. Renumbered in 1971.

Sec. 34.60.080. Litigation expenses. (a) The state court having jurisdiction of a proceeding instituted by the state agency to acquire real property by condemnation shall award the owner of any right to, or title to, or interest in, the real property a sum that will in the opinion of the court reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if