



LAWS OF ALASKA

1969

Source

HB 297 am

Chapter No.

60

AN ACT

Providing for relocation assistance and authorizing payments to persons displaced by highway activities; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 19 is amended by adding new chapters to read:

CHAPTER 29. RELOCATION ASSISTANCE.

Sec. 19.29.010. DEPARTMENT TO ESTABLISH PROGRAM. The department shall establish and provide the means for implementing a program providing fair and reasonable relocation and other payments for persons displaced from their property as a result of highway activities undertaken by the department and to carry out relocation assistance programs for persons displaced.

Sec. 19.29.020. ADMINISTRATION OF PROGRAM. (a) In order to prevent unnecessary expenses and duplication of functions, the department may make relocation payments or provide relocation assistance or otherwise carry out the functions required under this chapter by utilizing the facilities, personnel, and services of federal, state, or local governmental agencies having an established organization for conducting relocation programs.

(b) In giving relocation assistance, the department may establish a local relocation advisory assistance office to assist in obtaining replacement facilities for persons, families and businesses which must relocate because of the acquisition of right-of-way for a project on the state highway system or federal-aid system.

Sec. 19.29.030. RELOCATION PAYMENTS. (a) Upon

application approved by the department, a person displaced by a highway may elect to receive actual reasonable expenses in moving himself, his family, his business, or his farm operation, including personal property, a reasonable distance, not to exceed 50 miles.

(b) A displaced person who moves from a dwelling and who elects not to accept the payments authorized by (a) of this section may receive

(1) a moving expense allowance, determined according to a schedule established by the department not to exceed \$200; and

(2) a dislocation allowance of \$100.

(c) A displaced person who moves or discontinues his business or farm operation who elects not to accept the payment authorized by (a) of this section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, or \$5,000, whichever is less. In the case of a business, no payment may be made under this subsection unless the department is satisfied that the business

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

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

(d) For purposes of (c) of this section, the term "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, and includes compensation paid by the business or farm operation to the owner, his spouse, or his dependents during the two-year period.

Sec. 19.29.040. REPLACEMENT HOUSING. (a) In addition to the payments authorized by sec. 30 of this chapter, the department shall make a payment to the owner of real property acquired for a highway project which is improved with a single, two or three-family dwelling, owned and occupied by the owner for not less than one year before the initiation of negotiations for the acquisition of the property. The payment, which may not exceed \$5,000, is the amount, if any, which when added to the acquisition payment, equals the average price required for a comparable dwelling determined, in accordance with standards established by the department, to be a decent, safe and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the market. The payment shall be made only to a displaced owner, who purchases and occupies a dwelling that meets standards established by the department, within one year after the date on which he is required to move from the dwelling acquired for the project.

(b) In addition to the payment authorized by sec. 30

of this chapter, as a part of the cost of construction, the department shall make a payment to an individual or family displaced from a dwelling not eligible to receive a payment under (a) of this section which dwelling was actually and lawfully occupied by the individual or family for not less than 90 days before the initiation of negotiations for acquisition of the property. The payment, which may not exceed \$1,500, is the amount which is necessary to enable the person to lease or rent for a period not to exceed two years, or to make the down payment on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate the individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.

Sec. 19.29.050. EXPENSES INCIDENTAL TO TRANSFER OF PROPERTY. In addition to amounts otherwise authorized by this chapter, the department may reimburse the owner of real property acquired for a project for reasonable and necessary expenses incurred for

(1) recording fees, transfer taxes, and other expenses incidental to conveying the property;

(2) penalty costs for prepayment of a mortgage entered into in good faith encumbering the real property if the mortgage is on record by the department of the location of the project; and

(3) the pro rata portion of real property taxes paid which are allocable to the period after the date of vesting of title in the department, or the effective date of the possession of the real property by the department, whichever is earlier.

Sec. 19.29.060. RELOCATION SERVICES. The department shall provide a relocation advisory assistance program which shall include the measures, facilities, or services that may be necessary or appropriate in order to

(1) determine the needs, if any, of displaced families, individuals, business concerns and farm operators for relocation assistance;

(2) assure that, within a reasonable period of time, before 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, housing meeting the standards established by the department for decent, safe and sanitary dwellings, equal in number to the number of, and available to, the displaced families and individuals and reasonably accessible to their places of employment;

(3) assist owners of displaced businesses and displaced farm operators in obtaining and becoming established in suitable locations; and

(4) supply information concerning the Federal Housing Administration home acquisition program under sec. 221(d)(2) of the National Housing Act, the small

business disaster loan program under sec. 7(b)(3) of the Small Business Act, and other state or federal programs offering assistance to displaced persons.

Sec. 19.29.070. AUTHORITY OF THE DEPARTMENT. The department is authorized to adopt regulations to implement this chapter. These regulations shall include provisions relating to

(1) a moving expense allowance for a displaced person who moves from a dwelling, determined according to a schedule, not to exceed \$200;

(2) procedure for an aggrieved displaced person to have his determination of eligibility or amount of payment reviewed by the department;

(3) eligibility of a displaced person for relocation assistance payments, the procedure for displaced persons to claim the payments and the amount of the payments; and

(4) other regulations relating to highway relocation assistance as may be necessary or desirable.

Sec. 19.29.080. NONTAXATION OF PAYMENTS. No payment received by a displaced person under this chapter may be considered as income for the purposes of the income tax law or corporation tax law, nor may the payments be considered as income or resources to a recipient of public assistance and the payments may not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Sec. 19.29.090. EMINENT DOMAIN. Nothing contained in this chapter may be construed as creating in a condemnation proceeding brought under the power of eminent domain, an element of damages not in existence on the date of enactment of this statute.

Sec. 19.29.100. DEFINITIONS. In this chapter:

(1) "person" means:

(A) an individual, partnership, corporation, or association which is the owner of a business;

(B) an 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.

(2) "family" means two or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship.

(3) "displaced person" means a person who moves from real property on or after the effective date of this

chapter as a result of the acquisition or reasonable expectation of acquisition of the real property, which is subsequently acquired, in whole or in part, for a highway, or as the result of the acquisition for a highway, or as the result of the acquisition for a highway of other real property on which the person conducts a business or farm operation.

(4) "business" means a lawful activity conducted primarily

(A) for the purchase and resale, manufacture, processing, or marketing of products, commodities, or other personal property;

or (B) for the sale of services to the public;

(C) by a nonprofit organization.

(5) "farm operation" means an activity conducted solely or primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing those products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

* Sec. 2. AS 19.05.045 is hereby repealed.

* Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.