

Introduced: 1/29/69  
Referred: State Affairs & Finance

1 IN THE SENATE

BY BEGICH

2 SENATE BILL NO. 75

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to relocation assistance and  
7 authorizing payments to persons displaced by certain  
8 highway activities; and providing for an effective  
9 date."

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

11 \* Section 1. AS 19.05 is amended by adding new sections to read:

12 Sec. 19.05.046. RELOCATION ASSISTANCE. In addition to the  
13 powers listed in sec. 40 of this chapter, the department shall  
14 establish and provide the means for implementing a program providing  
15 fair and reasonable relocation and other payments for persons  
16 displaced from their property as a result of highway activities under-  
17 taken by the department under the federal-aid highway system and to  
18 carry out relocation assistance programs for persons displaced because  
19 of these activities. The department may make relocation payments or  
20 provide relocation assistance or otherwise carry out the functions  
21 required under this section by utilizing the facilities, personnel,  
22 and services of other federal, state, or local governmental agencies  
23 having an established organization for conducting relocation assis-  
24 tance programs. The department may establish a local relocation  
25 advisory assistance office to assist in obtaining replacement facili-  
26 ties for persons, families and businesses which must relocate because  
27 of the acquisition of right-of-way for any project on the federal-aid  
28 highway system.

29 Sec. 19.05.047. LIMITATIONS ON ASSISTANCE. (a) A displaced

1 person who moves from a dwelling may elect to receive a moving expense  
2 allowance, determined according to a schedule established by the  
3 secretary, not to exceed \$200 and a dislocation allowance of \$100;  
4 or a displaced person moving himself, his family, his business or his  
5 farm operation may elect to receive the actual reasonable expenses  
6 incurred from the move upon submitting an application to the department  
7 which is approved; or a displaced person who moves or discontinues  
8 his business or farm operation may elect to receive a fixed relocation  
9 payment in an amount equal to the average annual net earnings of the  
10 business or farm operation, or \$5,000, whichever is lesser. In the  
11 case of a business, no payment may be made under the annual net  
12 earnings election unless the department is satisfied that the business  
13 cannot be relocated without a substantial loss of its existing patron-  
14 age and the business is not a part of a commercial enterprise having  
15 at least one other establishment, not being acquired for a federal-aid  
16 highway project, which is engaged in the same or similar business.  
17 A business or farm operation electing to receive relocation allowances  
18 under the annual net earnings election must submit a copy of their  
19 state income tax returns for the periods in question along with other  
20 material which the department determines is necessary to reasonably  
21 ascertain the pertinent facts of eligibility for this election.

22 (b) In addition to payments authorized by (a) of this section  
23 the department is authorized to make a payment to the owner of real  
24 property acquired for a highway project which is improved with a  
25 single-, two-, or three-family dwelling, owned and occupied by the  
26 owner for not less than one year before the initiation of negotiations  
27 for the acquisition of the property. This payment, not to exceed  
28 \$5,000, is the amount, which, when added to the acquisition payment,  
29 equals the average price required for a comparable dwelling determined

1 by standards established by the department, to be a decent, safe, and  
2 sanitary dwelling adequate to accommodate the displaced owner, reason-  
3 ably accessible to public services and places of employment and  
4 available on the market. This payment shall be made to the displaced  
5 owner only if he purchases and occupies a dwelling that meets standards  
6 established by the department within one year subsequent to the date  
7 on which he is required to move from the dwelling acquired for the  
8 federal-aid highway project.

9 (c) In addition to the payments authorized by (a) and (b) of  
10 this section, the department is authorized to make payments to an  
11 individual or family displaced from a dwelling by a federal-aid highway  
12 project when the person or family is not eligible to receive payments  
13 under (b) of this section. The person or family shall have actually  
14 and lawfully occupied the dwelling for not less than 90 days before  
15 the initiation of negotiations for acquisition of the property. This  
16 payment, not to exceed \$1,500, shall be the amount necessary to enable  
17 the person or family to lease or rent for a period not to exceed two  
18 years, or to make the down payment on the purchase of a decent, safe,  
19 and sanitary dwelling of standards adequate to accommodate the  
20 individual or family in areas not generally less desirable in regard  
21 to public utilities and public and commercial facilities than the area  
22 from which they were displaced.

23 (d) The department is further authorized to reimburse the owner  
24 of real property acquired for a federal-aid highway project for the  
25 reasonable and necessary expenses incurred for

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

28 (2) penalty costs for prepayment of a mortgage entered into  
29 in good faith encumbering the real property if the mortgage is recorded

1 or has been filed for recording as provided by law on the date of  
2 approval by the department of the location of the federal-aid highway  
3 project;

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

8 (e) Nothing in secs. 46 - 48 of this chapter may be construed as  
9 creating, in a condemnation proceeding brought under the power of  
10 eminent domain, an element of damages not in existence on the date of  
11 enactment of secs. 46 - 48 of this chapter.

12 Sec. 19.05.048. ADVISORY PROGRAM AND RULE MAKING POWER. (a) The  
13 department shall provide a relocation advisory assistance program  
14 which shall include services as may be necessary in order to

15 (1) determine the needs, if any, of displaced persons,  
16 business concerns, and farm operations for relocation assistance;

17 (2) assure that, within a reasonable period of time before  
18 displacement there will be available, to the extent that can reasonably  
19 be accomplished, in areas not generally less desirable in regard to  
20 public utilities and public and commercial facilities and at rents or  
21 prices within the financial means of the families and individuals dis-  
22 placed, housing meeting the standards established by the department  
23 for decent, safe, and sanitary dwellings, equal in number to the  
24 number of, and available to, the displaced families and individuals  
25 and reasonably accessible to their places of employment;

26 (3) assist owners of displaced businesses and displaced  
27 farm operations in obtaining and becoming established in suitable  
28 locations;

29 (4) supply information concerning the Federal Housing

1 Administration home acquisition program under section 221(d)(2) of  
2 the National Housing Act, the small business disaster loan program  
3 under sec. 7(b)(3) of the Small Business Act, and other state and  
4 federal programs offering assistance to displaced persons.

5 (b) The department is authorized to adopt rules and regulations  
6 to implement secs. 46 - 48 of this chapter. These rules and regulations  
7 shall include provisions relating to

8 (1) procedure for an aggrieved displaced person to have  
9 his determination of eligibility or amount of payment reviewed by the  
10 commissioner;

11 (2) eligibility of a displaced person for relocation assis-  
12 tance payments, the procedure for claiming payments and the amount of  
13 payments;

14 (3) other rules and regulations relating to highway reloca-  
15 tion assistance which may prove necessary in carrying out the pro-  
16 visions of secs. 46 - 48 of this chapter.

17 Sec. 19.05.049. DEFINITIONS. In secs. 46 - 48 of this chapter

18 (1) "average annual net earnings" means one-half of the  
19 net earnings of the business or farm operation, before federal and  
20 state income taxes, during the two taxable years immediately preceding  
21 the taxable year in which the business or farm operation moves from  
22 the real property acquired for a federal-aid highway, and includes  
23 compensation paid by the business or farm operation to the owner, his  
24 spouse, or his dependents during the two-year period;

25 (2) "business" means a lawful activity conducted primarily  
26 for the purchase and resale, manufacture, processing or marketing of  
27 products, commodities, or other personal property or for the sale of  
28 services to the public, and includes a lawfully organized nonprofit  
29 organization;

1 (3) "displaced person" means a person who moves from real  
2 property on or after the effective date of secs. 46 - 48 of this chapter  
3 as a result of the acquisition or reasonable expectation of acquisition  
4 of the real property, which is subsequently acquired, in whole or in  
5 part, for a federal-aid highway project, and includes a person who  
6 moves from real property as the result of the acquisition for a highway  
7 or other real property on which the person conducted a business or  
8 farm operation;

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

12 (5) "farm operation" means an activity conducted solely or  
13 primarily for the production of one or more agricultural products or  
14 commodities for sale and home use, and customarily producing these  
15 products or commodities in sufficient quantity to be capable of con-  
16 tributing materially to the operator's support;

17 (6) "federal-aid highway" means a federal-state highway  
18 project carried out under provisions of 23 USC, sections 106 and 117  
19 and any laws amending or supplementing them;

20 (7) "secretary" means the Secretary of the United States  
21 Department of Transportation.

22 \* Sec. 2. AS 19.05.045 is repealed.

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