

Original sponsor: Rules Committee by  
request of the Governor

Offered: 4/9/71  
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CS  
AMS

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 28

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing for uniform relocation assistance  
7 and real property acquisition practices; and providing  
8 for an effective date."

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

10 \* Section 1. AS 44 is amended by adding a new chapter to read:

11 CHAPTER 81. RELOCATION ASSISTANCE AND REAL  
12 PROPERTY ACQUISITION PRACTICES.

13 Sec. 44.81.010. DECLARATION OF POLICY. The purpose of this  
14 chapter is to establish a uniform policy for the fair and equitable  
15 treatment of persons displaced as a result of federally assisted  
16 programs in order that the displaced persons will not suffer dispro-  
17 portionate injuries as a result of programs designed for the benefit  
18 of the public as a whole.

19 Sec. 44.81.020. STATE AGENCIES TO ESTABLISH PROGRAM. State  
20 agencies shall establish and provide the means for implementing  
21 a program providing fair and reasonable relocation and other payment for  
22 persons displaced as a result of federally assisted activities under-  
23 taken by state agencies, to carry out relocation assistance programs  
24 for persons displaced, and to provide payments to persons as a result  
25 of acquisition of real property for activities of state agencies.

26 Sec. 44.81.030. ADMINISTRATION OF PROGRAM. In order to prevent  
27 unnecessary expenses and duplication of functions, and to promote  
28 uniform and effective administration of relocation assistance programs  
29 for displaced persons under this chapter, state agencies may enter into

1 contracts with any individual, firm, association, or corporation for  
2 services in connection with relocation assistance programs, or may  
3 carry out its functions under this chapter through any federal or state  
4 governmental agency or instrumentality having an established organiza-  
5 tion for conducting relocation assistance programs.

6 Sec. 44.81.040. RELOCATION PAYMENTS. (a) Whenever the acquisi-  
7 tion of real property for a federally assisted program or project  
8 undertaken by a state agency will result in the displacement of any  
9 person on or after January 2, 1971, the state agency responsible for  
10 the program or project shall make payment to any displaced person, upon  
11 proper application as approved by the state agency, for

12 (1) actual reasonable expenses in moving himself, his  
13 family, business, farm operation, or other personal property;

14 (2) actual direct losses of tangible personal property as a  
15 result of moving or discontinuing a business or farm operation, but not  
16 to exceed an amount equal to the reasonable expenses that would have  
17 been required to relocate the property as determined by the state  
18 agency; and

19 (3) actual reasonable expenses in searching for a replace-  
20 ment business or farm.

21 (b) Any displaced person eligible for payments under (a) of this  
22 section who is displaced from a dwelling and who elects to accept the  
23 payments authorized by this subsection in lieu of payments authorized  
24 by (a) of this section may receive a moving expense allowance, deter-  
25 mined according to a schedule established by the state agency not to  
26 exceed \$300 and a dislocation allowance of \$200.

27 (c) Any displaced person eligible for payments under (a) of this  
28 section who is displaced from his place of business or from his farm  
29 operation and who elects to accept the payment authorized by this

1 subsection in lieu of the payment authorized by (a) of this section,  
2 may receive a fixed payment in an amount equal to the average annual  
3 net earning of the business or farm operation, except that such payment  
4 shall not be less than \$2,500 or more than \$10,000. In the case of a  
5 business, no payment may be made under this subsection unless the  
6 state agency is satisfied that the business

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

9 (2) is not a part of a commercial enterprise having at  
10 least one other establishment not being acquired by the state agency  
11 or by the United States, which is engaged in the same or similar  
12 business. For purposes of this subsection, the term "average annual  
13 net earnings" means one-half of any net earnings of the business or  
14 farm operation, before federal and state income taxes, during the two  
15 taxable years immediately preceding the taxable year in which the  
16 business or farm operation moves from the real property acquired for  
17 the project, or during any other period as the state agency determines  
18 to be more equitable for establishing the earnings, and includes any  
19 compensation paid by the business or farm operation to the owner, his  
20 spouse, or his dependents during the applicable period.

21 Sec. 44.81.050. REPLACEMENT HOUSING FOR HOMEOWNERS. (a) In  
22 addition to payments otherwise authorized by this chapter, the state  
23 agency shall make an additional payment not in excess of \$15,000, to  
24 any displaced person who is displaced from a dwelling actually owned  
25 and occupied by him for not less than 180 days prior to the initiation  
26 of negotiations for the acquisition of the property. This additional  
27 payment shall include the following elements

28 (1) the amount, if any, which when added to the acquisition  
29 cost of the dwelling acquired by the state agency, equals the reasonable

1 cost of a comparable replacement dwelling which is a decent, safe and  
2 sanitary dwelling adequate to accommodate the displaced person, reason-  
3 ably accessible to public services and places of employment and avail-  
4 able on the private market. All determinations required to carry out  
5 this paragraph shall be made in accordance with standards established  
6 by the state agency making the additional payment;

7 (2) the amount, if any, which will compensate the displaced  
8 person for any increased interest costs which the displaced person is  
9 required to pay for financing the acquisition of the comparable  
10 replacement dwelling. This amount may be paid only if the dwelling  
11 acquired by the state agency was encumbered by a bona fide mortgage  
12 which was a valid lien on the dwelling for not less than 180 days  
13 prior to the initiation of negotiations for the acquisition of the  
14 dwelling. This amount shall be equal to the excess in the aggregate  
15 interest and other debt service costs of that amount of the principal  
16 of the mortgage on the replacement dwelling which is equal to the un-  
17 paid balance of the mortgage on the acquired dwelling, over the  
18 remainder term of the mortgage on the acquired dwelling, reduced to  
19 discounted present value. The discount rate shall be the prevailing  
20 interest rate paid on savings deposits by commercial banks in the  
21 general area in which the replacement dwelling is located;

22 (3) reasonable expenses incurred by the displaced person  
23 for evidence of title, recording fees, and other closing costs incident  
24 to the purchase of the replacement dwelling, but not including prepaid  
25 expenses.

26 (b) The additional payment authorized by (a) of this section may  
27 be made only to a displaced person who purchases and occupies a  
28 replacement dwelling which is decent, safe and sanitary not later than  
29 the end of the one year period beginning on the date on which he

1 receives from the state agency final payment of all costs of the  
2 acquired dwelling, or the date on which he moves from the acquired  
3 dwelling, whichever is the later date.

4 Sec. 44.81.060. REPLACEMENT HOUSING FOR TENANTS AND OTHERS. In  
5 addition to amounts otherwise authorized by this chapter, the state  
6 agency shall make a payment to or for any displaced person displaced  
7 from any dwelling not eligible to receive a payment under sec. 50 of  
8 this chapter which dwelling was actually and lawfully occupied by the  
9 displaced person for not less than 90 days prior to the initiation of  
10 negotiations for acquisition of the dwelling. The payment shall be  
11 either

12 (1) the amount necessary to enable the displaced person to  
13 lease or rent for a period not to exceed four years, a decent, safe  
14 and sanitary dwelling of standards adequate to accommodate such person  
15 in areas not generally less desirable in regard to public utilities  
16 and public and commercial facilities, and reasonably accessible to his  
17 place of employment, but not to exceed \$4,000; or

18 (2) the amount necessary to enable the displaced person to  
19 make a downpayment, including incidental expenses described in sec.  
20 50(a)(3) of this chapter on the purchase of a decent, safe and  
21 sanitary dwelling of standards adequate to accommodate the displaced  
22 person in areas not generally less desirable in regard to public  
23 utilities and public and commercial facilities, but not to exceed  
24 \$4,000, except that if this amount exceeds \$2,000, the displaced person  
25 must equally match any amount in excess of \$2,000 in making the down-  
26 payment.

27 Sec. 44.81.070. EXPENSES INCIDENTAL TO TRANSFER OF PROPERTY. The  
28 state agency, as soon as practicable after the date of payment of the  
29 purchase price or the date of deposit in court of funds to satisfy the

1 award of compensation in a condemnation proceeding to acquire real  
2 property, whichever is the earlier, shall reimburse the owner, to the  
3 extent the department deems fair and reasonable, for expenses he  
4 necessarily incurred for

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

7 (2) penalty costs for prepayment of a preexisting recorded  
8 mortgage entered into in good faith encumbering the real property,  
9 provided that the mortgage was a valid lien on the property for not  
10 less than 180 days prior to the initiation of negotiations for the  
11 acquisition of the property; and

12 (3) the pro rata portion of real property taxes paid which  
13 are allocable to a period subsequent to the date of vesting title in  
14 the state, or the effective date of possession of the real property by  
15 the state agency, whichever is the earlier.

16 Sec. 44.81.080. LITIGATION EXPENSES. (a) The state court  
17 having jurisdiction of a proceeding instituted by the state agency  
18 to acquire real property by condemnation shall award the owner of any  
19 right, or title to, or interest in, the real property a sum which will  
20 in the opinion of the court reimburse the owner for his reasonable  
21 costs, disbursements and expenses, including reasonable attorney,  
22 appraisal and engineering fees, actually incurred because of the  
23 condemnation proceedings, if

24 (1) the final judgment is that the state agency cannot  
25 acquire the real property by condemnation; or

26 (2) the proceeding is abandoned by the state agency.

27 (b) Any award made pursuant to (a) of this section shall be paid  
28 be paid by the state agency for whose benefit the condemnation proceed-  
29 ings were instituted.

1 (c) The court rendering a judgment for the plaintiff in a pro-  
2 ceeding brought against a state agency, awarding compensation for the  
3 taking of property by the state agency, or the attorney for the state  
4 agency effecting a settlement of any such proceeding, shall determine  
5 and award or allow to the plaintiff, as a part of the judgment or  
6 settlement, a sum which will in the opinion of the court or the  
7 attorney for the state agency reimburse the plaintiff for his reason-  
8 able costs, disbursements and expenses, including reasonable attorney,  
9 appraisal and engineering fees, actually incurred because of the  
10 proceeding.

11 Sec. 44.81.090. RELOCATION SERVICES. (a) Whenever the acquisi-  
12 tion of real property for a program or project undertaken by a state  
13 agency for a federally assisted program or project undertaken by the  
14 state agency will result in the displacement of any person on or after  
15 January 2, 1971, the state agency shall provide a relocation assistance  
16 advisory program for displaced persons which shall offer the services  
17 described in (c) of this section. If the state agency determines that  
18 any person occupying property immediately adjacent to the real  
19 property acquired is caused substantial economic injury because of the  
20 acquisition, it may offer the occupant relocation advisory services  
21 under this program.

22 (b) State agencies administering programs which may be of assist-  
23 ance to displaced persons covered by this chapter shall cooperate to  
24 the maximum extent feasible with the state agency causing the dis-  
25 placement to assure that the displaced persons receive the maximum  
26 assistance available to them.

27 (c) Each relocation assistance advisory program required by (a)  
28 of this section shall include measures, facilities, or services  
29 necessary or appropriate in order to

1 (1) determine the need, if any, of displaced persons, for  
2 relocation assistance;

3 (2) provide current and continuing information on avail-  
4 ability, prices and rentals, of comparable decent, safe and sanitary  
5 sales and rental housing, and of comparable commercial properties and  
6 locations for displaced businesses;

7 (3) assure that, within a reasonable period of time, prior  
8 to displacement there will be available in areas not generally less  
9 desirable in regard to public utilities and public and commercial  
10 facilities and at rents or prices within the financial means of the  
11 families and individuals displaced, decent, safe and sanitary dwellings,  
12 as defined by the state agency, equal in number to the number of and  
13 available to the displaced persons who require the dwellings and  
14 reasonably accessible to their places of employment, except that the  
15 state agency may prescribe by regulation situations when such  
16 assurances may be waived;

17 (4) assist a displaced person displaced from his business  
18 or farm operation in obtaining and becoming established in a suitable  
19 replacement location;

20 (5) supply information concerning federal and state  
21 housing programs, disaster loan programs, and other federal or state  
22 programs offering assistance to displaced persons; and

23 (6) provide other advisory services to displaced persons in  
24 order to minimize hardships in adjusting to relocation.

25 (d) The state agency shall coordinate relocation activities with  
26 project work, and other planned or proposed governmental actions in  
27 the community or nearby areas which may affect the carrying out of  
28 relocation assistance programs.

29 Sec. 44.81.100. EMINENT DOMAIN. Nothing contained in this

1 chapter may be construed as creating in a condemnation proceeding,  
2 brought under the power of eminent domain, an element of damages not  
3 in existence on January 2, 1971.

4 Sec. 44.81.110. NONTAXATION OF PAYMENTS. No payment received by  
5 a displaced person under this chapter may be considered as income for  
6 the purposes of the state or federal income tax, personal or corporate.  
7 The payments may not be considered as income or resources to a  
8 recipient of public assistance and the payments may not be deducted  
9 from the amount of aid to which the recipient would otherwise be  
10 entitled.

11 Sec. 44.81.120. UNIFORM REAL PROPERTY ACQUISITION POLICY. Any  
12 state agency or other entity acquiring real property for any project  
13 or program in which federal or federal-aid funds are used shall to the  
14 greatest extent practicable comply with the following policies:

15 (1) Every reasonable effort shall be made to expeditiously  
16 acquire real property by negotiation.

17 (2) Real property shall be appraised before the initiation  
18 of negotiations, and the owner or his designated representative shall  
19 be given an opportunity to accompany the appraiser during his  
20 inspection of the property.

21 (3) Before the initiation of negotiations for real property,  
22 an amount shall be established which is reasonably believed to be  
23 just compensation for the real property and that amount shall be offered  
24 for the property. In no event shall the amount be less than the  
25 approved appraisal of the fair market value of the property. Any  
26 decrease or increase in the fair market value of real property prior  
27 to the date of valuation caused by the public improvement for which the  
28 property is acquired or by the likelihood that the property would be  
29 acquired for the improvement, other than that due to physical

1 deterioration within the reasonable control of the owner, will be dis-  
2 regarded in determining the compensation for the property. The owner  
3 of the real property to be acquired shall be provided with a written  
4 statement of, and a summary of the basis for, the amount established as  
5 just compensation.

6 (4) No owner shall be required to surrender possession of  
7 real property before the state agency concerned pays the agreed  
8 purchase price or deposits with the court in accordance with applicable  
9 law, for the benefit of the owner, an amount not less than the approved  
10 appraisal of the fair market value of the property, or the amount of  
11 the award of compensation in the condemnation proceeding for the  
12 property.

13 (5) The construction or development of a public improvement  
14 shall be so scheduled that, to the greatest extent practicable, no  
15 person lawfully occupying real property shall be required to move from  
16 a dwelling (assuming a replacement dwelling will be available) or to  
17 move his business or farm operation, without at least 90 days' written  
18 notice of the date by which the move is required.

19 (6) If an owner or tenant is permitted to occupy the real  
20 property acquired on a rental basis for a short term or for a period  
21 subject to termination by the state agency on short notice, the amount  
22 of rent required shall not exceed the fair rental value of the property  
23 to a short-term occupier.

24 (7) In no event shall the time of condemnation be advanced  
25 or negotiations or condemnation and the deposit of funds in court for  
26 the use of the owner be deferred, nor any other coercive action be  
27 taken in order to compel an agreement on the price to be paid for the  
28 property.

29 (8) If an interest in real property is to be acquired by

1 exercise of the power of eminent domain, formal condemnation proceedings  
2 shall be instituted. The acquiring state agency shall not intention-  
3 ally make it necessary for an owner to institute legal proceedings to  
4 prove the fact of the taking of his real property.

5 (9) If the acquisition of only part of the property would  
6 leave its owner with an uneconomic remnant, an offer to acquire the  
7 entire property shall be made.

8 Sec. 44.81.130. UNIFORM ACQUISITION POLICY FOR IMPROVEMENTS. (a)  
9 Notwithstanding any other provision of law, if a state agency acquires  
10 any interest in real property, the state agency must acquire at least  
11 an equal interest in all buildings, structures, or other improvements  
12 located upon the real property which the state agency requires to be  
13 removed from the real property or which the state agency determines  
14 will be adversely affected by the use to which the real property will  
15 be put.

16 (b) For the purpose of determining just compensation to be paid  
17 for any building, structure, or other improvement required to be  
18 acquired under (a) of this section, the building, structure or other  
19 improvement is considered to be a part of the real property to be  
20 acquired notwithstanding the right or obligation of a tenant, as  
21 against the owner of any other interest in the real property, to remove  
22 the building, structure or improvement at the expiration of his term,  
23 and the fair market value which the building, structure or improvement  
24 contributes to the fair market value of the real property to be acquired,  
25 or the fair market value of such building, structure or improvement for  
26 removal from the real property, whichever is the greater, shall be  
27 paid to the tenant.

28 (c) Payment for the buildings, structures or improvements under  
29 this section may not result in duplication of any payments otherwise

1 authorized by law. No payment for buildings, structures or improvements  
2 may be made unless the owner of the land involved disclaims all interest  
3 in the improvements of the tenant. In consideration for any such  
4 payment, the tenant shall assign, transfer and release to the state  
5 agency all his right, title and interest in and to the improvements.  
6 Nothing in paragraphs (10) and (11) of this section may be construed  
7 to deprive the tenant of any rights to reject payment and to obtain  
8 payment for the property interests in accordance with other laws of  
9 the state.

10 Sec. 44.81.135. PLANNING LOANS FOR ADDITIONAL HOUSING. In  
11 addition to the other programs authorized by this chapter, a state  
12 agency may make loans in order to encourage and facilitate the con-  
13 struction or rehabilitation of housing to meet the needs of displaced  
14 persons. These loans are a part of the federally assisted project  
15 cost and may be made to nonprofit, limited dividend, or cooperative  
16 organizations or public bodies. The loans may be made only for  
17 necessary and reasonable expenses, before construction, for planning  
18 and obtaining federally insured mortgage financing for the rehabilita-  
19 tion or construction of housing for displaced persons. The loans may  
20 not exceed 80 per cent of the reasonable costs expected to be incurred  
21 in planning, and in obtaining financing for housing for displaced  
22 persons. Reasonable costs include but are not limited to costs for  
23 preliminary surveys and analysis of market needs, preliminary archi-  
24 tectural fees, site acquisition, application and mortgage commitment  
25 fees, and construction loan fees and discounts. Loans to an organiza-  
26 tion established for profit shall bear interest at a market rate  
27 established by the state agency. All other loans shall be without  
28 interest. The state agency shall require repayment of loans made under  
29 this section, under terms and conditions established by the state

1 agency. Repayment shall be made upon completion of the project or  
2 sooner, and except in the case of a loan to an organization established  
3 for profit, the state agency may cancel any part or all of a loan  
4 following a determination by the state agency that a permanent loan  
5 to finance the rehabilitation or construction of the housing cannot  
6 be obtained in an amount adequate for repayment of the loan.

7 Sec. 44.81.137. HOUSING REPLACEMENT ASSISTANCE AS LAST RESORT.

8 If a federally aided program or project cannot proceed to actual  
9 construction because comparable replacement sale or rental housing is  
10 not available, and the state agency determines that this housing  
11 cannot otherwise be made available, the agency may take action neces-  
12 sary or appropriate to provide the housing by use of funds authorized  
13 for the project.

14 Sec. 44.81.140. REGULATIONS. State agencies are authorized to  
15 adopt regulations to implement this chapter. These regulations shall  
16 include provisions relating to

17 (1) a moving expense allowance for displaced persons who  
18 move from a dwelling, determined according to a schedule, not to exceed  
19 \$300;

20 (2) procedures for an aggrieved person to have his deter-  
21 mination of eligibility or amount of payment reviewed by the state  
22 agency;

23 (3) eligibility of a displaced person for relocation assis-  
24 tance payments, the procedure for displaced persons to claim the  
25 payments, amount of the payments; and

26 (4) other regulations necessary to implement the provisions  
27 of this chapter.

28 Sec. 44.81.150. DEFINITIONS. In this chapter

29 (1) "business" means any lawful activity, excepting a farm

1 operation, conducted primarily

2 (A) for the purchase, sale, lease and rental of personal  
3 and real property, and manufacture, processing, or marketing of  
4 products, commodities, or any other personal property;

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

6 (C) by a nonprofit organization; or

7 (D) solely for the purpose of sec. 40(a) of this  
8 chapter, for assisting in the purchase, sale, resale, manufacture,  
9 processing, or marketing of products, commodities, personal  
10 property, or services by the erection and maintenance of an out-  
11 door advertising display or displays, whether or not such display  
12 or displays are located on the premises on which any of the  
13 above activities are conducted;

14 (2) "displaced person" means any person who, on or after  
15 January 2, 1971 moves from real property, or moves his personal  
16 property from real property, as a result of the acquisition of the real  
17 property, in whole or in part, or as a result of the written order of  
18 the state agency to vacate real property, for a program or project  
19 undertaken by the state agency, and solely for the purpose of secs.  
20 40(a) and 90 of this chapter, as a result of the acquisition of, or as  
21 a result of the written order of a state agency to vacate other real  
22 property on which the person conducts a business or farm operation for  
23 the program or project;

24 (3) "farm operation" means any activity conducted solely  
25 or primarily for the production of one or more agricultural products  
26 or commodities, including timber, for sale or home use, and customarily  
27 producing these products or commodities in sufficient quantity to be  
28 capable of contributing materially to the operator's support;

29 (4) "mortgage" means such classes of liens as are commonly

1 given to secure advances on, or the unpaid purchase price of, real  
2 property, under the law of the state in which the real property is  
3 located, together with the credit instruments, if any, secured by the  
4 property;

5 (5) "person" means any individual, partnership, corporation,  
6 or association;

7 (6) "state agency" means any department, agency, instru-  
8 mentality, corporate authority of the state, or a political subdivision  
9 of the state, or any department, agency, instrumentality or authority  
10 of two or more political subdivisions of the state participating in  
11 federally assisted programs.

12 \* Sec. 2. AS 19.35 is repealed.

13 \* Sec. 3. This Act is retroactive to January 2, 1971.

14 \* Sec. 4. This Act takes effect on the day after its passage and approval  
15 or on the day it becomes law without approval.