

ACT 165

H. B. NO. 1597-70

A Bill for an Act Relating to Assistance for Displaced Persons, Families, Businesses and Non-Profit Organizations in Airport Acquisition Programs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and Declaration of Legislative Purpose. The Legislature hereby finds and declares that it is in the public interest that persons displaced by any land acquisition undertaken by the State for airport purposes should be compensated for such displacement under certain circumstances.

SECTION 2. Chapter 261, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

“PART . AIRPORT RELOCATION

“Section 261- . Definitions. When used in this part:

‘Person’ means (1) any individual, partnership, corporation or association which is the owner of a business; (2) any owner, part owner, tenant, or sharecropper operating a farm; (3) the head of a family; or (4) an individual not a member of a family.

‘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.

‘Displaced person’ means any person who is required to move from any real property on or after the effective date of this Part as a result of the acquisition of such real property for airport purposes or as the result of the acquisition for airport purposes of other real property on which such person is conducting a business or farm operation.

‘Director’ means the state director of transportation.

‘Business’ means any lawful activity conducted (1) primarily for the purchase and resale, manufacture, processing, or marketing of products, commodities or any other personal property; (2) primarily for the sale of services to the public; or (3) by a non-profit organization.

‘Farm operation’ means any activity conducted solely or primarily for the production of one or more agricultural products or commodities 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.

“Section 261- . Assistance for displaced person, families, businesses and non-profit organizations. (a) Payment of actual and reasonable expenses. The director may compensate any person, family, business, or non-profit organization for his or its actual and reasonable moving expenses incurred as a result of being displaced by any land acquisition program of the State for any airport purpose.

(b) Optional payments (dwellings). Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive:

1. A moving expense allowance, determined according to a schedule established by the director not to exceed two hundred dollars (\$200);
2. A dislocation allowance in the amount of one hundred dollars (\$100).

(c) Optional payments (business and farm operations). Any displaced person who moves or discontinues his business or farm operations who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (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 the lesser. In the case of a business no payment shall be made under this subsection unless the director 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 which is engaged in the same or similar business.

“The director shall include the costs specified in this section as a part of the cost of construction of the airport for which such land acquisition program is initiated.

“Section 261- . Replacement housing. (a) In addition to any amount authorized herein as part of the cost of construction of the airport for which land acquisition is initiated, the director shall make a payment to the owner of real property improved by a single-family, two-family, or three-family dwelling actually owned and occupied by the owner for not less than one year prior to the first written offer by the department of transportation for the acquisition of such property. Such payment, not to exceed \$5,000, shall be 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 director 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 private market. Such payment shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which he is required to move from the dwelling acquired for the project.

“(b) In addition to amounts otherwise authorized by this Part, the director shall make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (a) of this section which dwelling was actually and lawfully occupied by such individual or family for not less than ninety days prior to the first written offer by the department of transportation for acquisition of such property. Such payment, not to exceed \$1,500 shall be the amount which is necessary to enable such 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 such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.

“Section 261- . Not treated as income. No payment received under this part shall be considered as income for purposes of the State income tax law; nor shall such payments be considered as income to any recipient of public assistance and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled to under the State welfare programs.

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“Section . Decision of director. The written decision of the director shall be final.

“Section . Rules and Regulations. The director may adopt rules and regulations to carry out the purposes of this part and may adopt all or any part of applicable federal rules and regulations which are necessary or desirable to obtain federal assistance in making payments hereunder.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval but shall apply to those individuals who were displaced as a result of proposed airport projects after September 1, 1969.

(Approved June 25, 1970.)

* Edited accordingly