

**ACT 274**

S.B. NO. 3247

A Bill for an Act Relating to Condemnation.

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

SECTION 1. The purpose of this Act is to assist persons who are displaced by the government's acquisition of private land either through the power of eminent domain or through a negotiated purchase of private personal property under threat of condemnation.

The legislature finds that it is in the public interest to assist in the relocation of dislocated businesses by giving these entities first priority for the lease of designated public lands for commercial and industrial uses, and by providing other reasonable and appropriate relocation assistance.

SECTION 2. Chapter 101, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§101- Priority for lessees dislocated by condemnation proceedings.**

Notwithstanding any law to the contrary, any lessee engaged in commercial or industrial uses who has been or will be displaced from private property which is acquired by the State or any county for public use by the power of eminent domain or threat thereof shall have the right of first refusal to enter into a lease in an industrial park created under chapter 171, or on other state land, which has been designated as an appropriate relocation site for the displaced lessee by law or by resolution adopted by the board of land and natural resources and approved by the legislature by concurrent resolution.”

SECTION 3. Chapter 171, Part VII, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§171- Lease for lessees dislocated by condemnation proceedings.** (a) For purposes of this section:

- (1) “Dislocated lessee” means any lessee engaged in commercial or industrial uses who has been or will be displaced from private property which is acquired by the State or any county for public use by the power of eminent domain or threat thereof; and
- (2) “Eligible relocation site” means a site in an industrial park created under this chapter or on other state land, designated as an appropriate relocation site for dislocated lessees by law, or by resolution adopted by the board of land and natural resources and approved by the legislature by concurrent resolution.

(b) Notwithstanding any law to the contrary, any dislocated lessee shall have the right of first refusal to enter into a lease for an eligible relocation site.

(c) The board shall issue a lease to a dislocated lessee for an eligible relocation site under mutually agreeable terms, conditions, and lease rent. The lease shall be issued through negotiations, without regard to the limitations set forth in section 171-16(c) and section 171-59(a). The terms, conditions and rent under the lease shall be in conformance with chapter 171, and the board shall include lease covenants in each lease for the placement and construction of improvements in accordance with minimum standards established by applicable county building codes.

(d) The board shall negotiate in good faith with each dislocated lessee. If the board and dislocated lessee cannot agree to a lease within one hundred and eighty days from the date the dislocated lessee receives notice of the availability of an eligible relocation site, the board shall have no further obligation to negotiate with or issue a lease to the dislocated lessee for that economic unit, and may issue a lease for the economic unit to another person after the one hundred and eighty-day period according to the provisions of chapter 171.”

SECTION 4. Section 261-32, Hawaii Revised Statutes, is amended to read as follows:

**“[[§261-32]] Assistance for displaced person, families, businesses and nonprofit organization.** (a) [Payment of actual and reasonable expenses.] The director may compensate any person, family, business, or nonprofit organization for [the person’s 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 \$200;
- (2) A dislocation allowance in the amount of \$100.

(c) [Optional payments (business and farm operations).] Any displaced person who moves or discontinues the person's 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.]

(d) In addition to any payments authorized in subsection (a) and (c), the director may provide relocation assistance to any displaced person who moves a business as a result of any land acquisition program of the State for any airport use.

(e) The director may enter into leases, licenses, and other arrangements with any displaced person granting the use or occupancy of any lands or property under the department's jurisdiction. The director may allow any lessee of a site acquired by the department to remain on the site, and may enter into a new lease with such person granting the use of the site; provided that the term of the new lease shall not exceed the time remaining on the lease terminated by the acquisition. Any lease issued pursuant to this section shall be issued through negotiation, under mutually agreeable terms, conditions, and lease rent, without regard to the limitations set forth in chapter 171.

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

SECTION 5. There is appropriated out of the airport revenue fund of the State of Hawaii the sum of \$125,000,000, or so much thereof as may be necessary for fiscal year 1990-1991, for the department of transportation to acquire land and to provide for the relocation costs and other necessary and reasonable expenses incurred by dislocated lessees or tenants as a result of actual or threatened condemnation proceedings to acquire private property for the purpose of expanding Honolulu international airport.

SECTION 6. The sum appropriated shall be expended by the department of transportation for the purposes of this Act.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 1990.

(Approved June 25, 1990.)

**Note**

1. Edited pursuant to HRS §23G-16.5.