CHAPTER 316

RELOCATION OF PERSONS DISPLACED BY HIGHWAYS

Referred to in §6B.42, 307.24, 310.22, 331.382

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316.1 Definitions.

As used in this chapter the term:

1. *"Administrative rules"* means all rules subject to the provisions of chapter 17A.

2. *"Business"* means any lawful activity, excepting a farm operation, conducted primarily:

a. For the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

b. For the sale of services to the public;

c. By a nonprofit organization; or

d. Solely for the purposes of section 316.4, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not the display or displays are located on the premises on which any of the above activities are conducted.

3. *"Comparable replacement dwelling"* means any single family residential unit that is all of the following:

a. Decent, safe, and sanitary.

b. Adequate in size to accommodate the occupants.

c. Within the financial means of the displaced person.

d. Functionally equivalent to the displaced person's dwelling.

e. In an area not subject to unreasonably adverse environmental conditions.

f. In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

4. *"Department"* means the state department of transportation.

5. *"Displaced person"* means:

a. A person who moves from real property or moves the person's personal property from real property in any of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, the real property in whole or in part for a program or project undertaken with federal financial assistance.

(2) The person moved or moved the person's personal property from real property on which the person is either a residential tenant or conducts a small business, a farm operation, or a business as defined in subsection 2, paragraph *"d"*, as a direct result of rehabilitation or demolition for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

(3) As a direct result of a written notice of intent to acquire by condemnation, the initiation of negotiations for, or the acquisition of, the real property in whole or in part by the state of Iowa or by an entity or person conferred the right to condemn private property.

b. For purposes of section 316.4, subsections 1 and 2, and section 316.7, a person who moves from real property, or moves the person's personal property from real property in any of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, other real property in whole or in part if the person conducts a business or farm operation on the other real property for a program or project undertaken with federal financial assistance.

(2) As a direct result of rehabilitation or demolition of other real property on which the person conducts a business or a farm operation for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

(3) As a direct result of a written notice of intent to acquire by condemnation, the initiation of negotiations for, or the acquisition of, other real property in whole or in part by the state of Iowa or by an entity or person conferred the right to condemn private property if the person conducts a business or farm operation on the other real property.

c. The term *"displaced person"* does not include any of the following:

(1) A person who has been determined to be either in unlawful occupancy of the real property or who has occupied the real property for the purpose of obtaining assistance under this chapter.

(2) A person, other than the person who was the occupant of the real property at the time it was acquired, who occupies the real property on a rental basis for a short term or a period subject to termination when the real property is needed for the program or project.

(3) An owner-occupant who voluntarily sells the owner-occupant's property, after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached the state agency will not acquire the property.

(4) A person who retains the right of use and occupancy of the real property for life following its acquisition by a state agency.

6. *"Displacing agency"* means the state or a state agency carrying out a program or project, or any person carrying out a program or project with federal financial assistance, which causes a person to be a displaced person.

7. *"Farm operation"* means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

8. *"Federal financial assistance"* means a grant, loan, or contribution provided by the United States; however, *"federal financial assistance"* does not include any federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

9. *"Federal Uniform Relocation Act"* means the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91-646, as amended by the Uniform Relocation Act Amendments of 1987, Tit. IV, Pub. L. No. 100-17.

10. *"Mortgage"* means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of real property, under the laws of this state, together with the credit instruments, if any, secured thereby.

11. *"Person"* means any individual, partnership, corporation, or association.

12. *"State agency"* means any of the following:

a. A department, agency, or instrumentality of the state or of a political subdivision of the state.

b. A department, agency, or instrumentality of two or more political subdivisions of the state, or states.

c. A person who has the authority to acquire property by eminent domain under state law.

[C71, 73, 75, 77, 79, 81, §316.1]

89 Acts, ch 20, §1 – 5; 99 Acts, ch 171, §32, 42

Referred to in §6B.42, 316.4

316.2 Effect on acquisitions and condemnations.

1. The provisions of this chapter shall not affect the validity of any property acquisitions by purchase or condemnation.

2. Nothing in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to the date of this chapter.

3. *a.* A payment made or to be made under the authority granted in this chapter shall be for compensating or reimbursing the displaced person or owner of real property in accordance with the requirements of the federal Uniform Relocation Act and this chapter and the payments shall not for any purpose be deemed or considered compensation for real property acquired or compensation for damages to remaining property.

b. Payments authorized to be made by the federal Uniform Relocation Act and this chapter shall be made as relocation payments, and in order to prevent unjust enrichment or a duplication of payments to any condemnee in any condemnation proceeding or appeal from any condemnation proceeding, an allowance shall not be made in determining just compensation in a condemnation proceeding for any damages, for any item of damage, or any cost, which is authorized to be paid as a relocation payment.

c. Moving cost payments and allowances for personal property which is damaged or destroyed or reduced in value by an acquisition of property authorized under section 6B.14 or any other provision of the Code under the powers of eminent domain on projects where relocation assistance payments are paid under this chapter shall be those payments and allowances authorized by this chapter and shall not be made or included as part of an award of damages in any condemnation proceeding or appeal from any condemnation proceeding.

[C71, §316.8; C73, 75, 77, 79, 81, §316.2]
89 Acts, ch 20, §6; 2010 Acts, ch 1061, §180

316.3 Declaration of policy — authorization — divisibility of application.

1. The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of federally assisted programs or projects in order that the persons shall not suffer disproportionate injuries as a result of programs or projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on the persons. The general assembly declares that relocation assistance for persons displaced by programs and projects is a necessary and essential part of the programs and projects. This chapter shall be known and may be cited as the *"Relocation Assistance Law."*

2. If a displacing agency subject to the provisions of the federal Uniform Relocation Act, or if another entity required or electing to provide any of the programs or payments authorized by this chapter, undertakes a project which results in the acquisition of real property or in a person being displaced from the person's home, business, or farm, the displacing agency or other entity may provide relocation assistance, and make relocation payments to the displaced person and do the other acts and follow the procedures and practices as may be necessary to comply with the provisions of the federal Uniform Relocation Act and this chapter. Displacing agencies may provide all or a part of the program and payments authorized under this chapter to persons displaced by any program or project regardless of the funding source. However, to the extent a program or a payment is provided, the program or payment shall be provided on a uniform basis to all displaced persons.

3. If a provision, clause, or phrase of this chapter, or application of this chapter to a person or circumstance is adjudged invalid by any court of competent jurisdiction, the judgment shall not invalidate the remainder of the chapter, and the application of the chapter to other persons or circumstances shall not be affected by the adjudication.

[C73, 75, 77, 79, 81, §316.3]
89 Acts, ch 20, §7

316.4 Moving and related expenses.

1. If a program or project undertaken by a displacing agency will result in the displacement of a person, the displacing agency shall make a payment to the displaced

person, upon proper application as approved by the displacing agency, for actual reasonable and necessary expenses incurred in moving the person, the person's family, business, farm operation, or other personal property subject to rules and limits established by the department. The payment may also provide for actual direct losses of tangible personal property, purchase of substitute personal property, business reestablishment expenses, storage expenses, and expenses incurred in searching for a replacement business or farm.

2. A displaced person eligible for payments under subsection 1, who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection 1, may receive a moving expense and dislocation allowance determined according to a schedule established by the department.

3. A displaced person, as defined in section 316.1, subsection 2, paragraph *"a"*, eligible for payments under subsection 1, who is displaced from the person's place of business or farm operation and who is eligible, may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1. The payment shall consist of a fixed payment in an amount to be determined according to criteria established by the department. A person whose sole business at the displaced dwelling is the rental of the real property does not qualify for a payment under this subsection.

[C71, §316.3; C73, 75, 77, 79, 81, §316.4]
89 Acts, ch 20, §8
Referred to in §316.1

316.5 Replacement housing for homeowner.

1. In addition to payments otherwise authorized by this chapter, the displacing agency shall make an additional payment to a displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than one hundred eighty days immediately prior to the initiation of negotiations for the acquisition of the property. All determinations to carry out this section shall be made in accordance with administrative rules adopted by the department. The additional payment shall include the following elements:

a. The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.

b. The amount, if any, which will compensate the displaced person for any increased interest costs and other debt service costs which the displaced person is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than one hundred and eighty days immediately prior to the initiation of negotiations for the acquisition of the dwelling.

c. Actual, reasonable, and necessary expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of a replacement dwelling, but not including prepaid expenses.

2. The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which the person receives final payment from the displacing agency of all costs of the acquired dwelling, or on the date on which the obligation of the displacing agency under section 316.8 is met, whichever is the later, except that the displacing agency may extend the eligibility period for good cause. If the period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of the applicable date.

[C71, §316.4(1), 316.5; C73, 75, 77, 79, 81, §316.5]
89 Acts, ch 20, §9
Referred to in §316.6, 316.8

316.6 Replacement housing for tenants and certain others.

In addition to amounts otherwise authorized by this chapter, the displacing agency shall make a payment to or for a displaced person, displaced from a dwelling, not eligible to receive a payment under section 316.5, which dwelling was actually and lawfully occupied by the displaced person for not less than ninety days immediately prior to the initiation

of negotiations for acquisition of the dwelling, or as a result of the written order of the displacing agency to vacate the real property. All determinations to carry out this section shall be made in accordance with administrative rules adopted by the department. The displaced person may elect either of the following:

1. The amount necessary to enable the displaced person to lease or rent a comparable replacement dwelling. At the discretion of the displacing agency, a payment under this subsection may be made in periodic installments. Computations of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account the person's income.

2. The amount necessary to enable the person to make a down payment, including incidental expenses described in section 316.5, subsection 1, paragraph "c", on the purchase of a decent, safe, and sanitary dwelling. The person may, at the discretion of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection 1, except that, in the case of a displaced homeowner who has owned and occupied the displaced dwelling for at least ninety days but not more than one hundred and eighty days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment shall not exceed the payment the person would otherwise have received under section 316.5, subsection 1, had the person owned and occupied the displaced dwelling for one hundred and eighty days immediately prior to the initiation of the negotiations.

[C71, §316.4(2), 316.5; C73, 75, 77, 79, 81, §316.6]
89 Acts, ch 20, §10
Referred to in §316.8

316.7 Relocation assistance advisory services.

1. A displacing agency shall ensure that relocation assistance advisory services are made available to all persons displaced by the displacing agency. If the displacing agency determines that a person occupying property adjacent to the real property where the displacing activity occurs, is caused substantial economic injury as a result of the displacing activity, the displacing agency may offer the person relocation assistance advisory services.

2. The displacing agency shall cooperate to the maximum extent feasible with federal, state, or local agencies to ensure that the displaced persons receive the maximum assistance available to them.

3. Each relocation assistance advisory program required by subsection 1 shall include such measures, facilities, or services as may be necessary or appropriate in order to comply with the provisions of the federal Uniform Relocation Act and this chapter.

4. The displacing agency shall provide other advisory services to displaced persons in order to minimize hardships to the displaced persons in adjusting to relocation.

5. The displacing agency shall coordinate relocation activities with project work, and other planned or proposed governmental actions or displacing activities in the community or nearby areas which may affect the carrying out of relocation assistance programs.

[C71, §316.2; C73, 75, 77, 79, 81, §316.7]
89 Acts, ch 20, §11
Referred to in §316.1

316.8 Housing replacement by the displacing agency.

1. If a project cannot proceed on a timely basis because comparable replacement dwellings are not available, and the displacing agency determines that such dwellings cannot otherwise be made available, the displacing agency may take such action as is necessary or appropriate to provide the dwellings by use of funds authorized for the program or project. The displacing agency may let contracts for the construction of the dwellings, approve plans and specifications for the building of the dwellings, and supervise, inspect, and approve the dwellings once constructed in order that the dwellings so constructed comply with the terms and conditions of this chapter. The displacing agency may under this section exceed the maximum amounts which may be paid under sections 316.5 and 316.6 on a case-by-case basis for good cause as determined in accordance with administrative rules adopted by the department.

2. A person shall not be required to move from the person's dwelling on or after July 1, 1971, on account of any program or project, unless the displacing agency is satisfied that a comparable replacement dwelling is available to the person.

[C73, 75, 77, 79, 81, §316.8]

89 Acts, ch 20, §12

Referred to in §316.5

316.9 Rules.

1. The department shall adopt administrative rules pursuant to chapter 17A as necessary to effect the provisions of this chapter and to assure:

a. Compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91-646, as amended by the Uniform Relocation Act Amendments of 1987, Tit. IV, Pub. L. No. 100-17.

b. The payments authorized by this chapter are fair and reasonable and as uniform as practicable.

c. A displaced person who makes proper application for a payment authorized by this chapter is paid promptly after a move or, in hardship cases, is paid in advance.

2. A person aggrieved by a determination as to eligibility for assistance or a payment authorized by this chapter, or the amount of a payment, upon application may have the matter reviewed.

3. Rules governing reviews shall provide for a prompt one-step uncomplicated fact-finding process. Such a review is an appeal of an agency action as defined in section 17A.2, subsection 2, and is not a contested case. The decision rendered shall be the displacing agency's final agency action.

[C71, 73, 75, 77, 79, 81, §316.9]

88 Acts, ch 1209, §1; 89 Acts, ch 20, §13; 2010 Acts, ch 1069, §85

Referred to in §6B.54

316.10 and 316.11 Repealed by 89 Acts, ch 20, §21.

316.12 Payments to displaced persons not to be considered as income.

Except for any federal or state law providing low-income housing assistance, a payment received by a displaced person under this chapter shall not be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any federal or state law or for the purposes of chapter 422.

[C73, 75, 77, 79, 81, §316.12]

89 Acts, ch 20, §14

316.13 Administration.

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the displacing agency may enter into contracts with any individual, firm, association, or corporation for services in connection with the programs, or may carry out its functions through any governmental agency, political subdivision, or instrumentality having an established organization for conducting relocation assistance programs. If practicable, the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities shall be used.

[C73, 75, 77, 79, 81, §316.13]

89 Acts, ch 20, §15

316.14 Funding.

Funds appropriated or otherwise available to any state agency for a program or project shall also be available to carry out the provisions of this chapter.

Payments and expenditures under this chapter for highway projects are incident to and arise out of the construction, maintenance, and supervision of public highways and streets, and, in the case of any federal-aid highway project, may be made by the department from the primary road fund and funds made available by the federal government for the purpose of

carrying out this chapter. Payments made under this chapter may be made from the primary road fund in case of a primary road project only, and in other cases may be made from appropriate funds under the control of a political subdivision.

[C71, §316.6; C73, 75, 77, 79, 81, §316.14]

83 Acts, ch 123, §118, 209; 89 Acts, ch 20, §16

Referred to in §331.429

316.15 Federal grants — payment of right-of-way and relocation assistance benefits.

The department may do all things necessary to carry out the provisions of this chapter and to secure federal grants to make the payments required by this chapter, but the absence of federal aid to make such payments shall not discharge the obligation to make the payments. The department is authorized to pay all right-of-way and relocation assistance benefits in the full amount authorized by federal standards and rules. In order to avoid delays, payment for such benefits made in cooperation with the federal government may be advanced from the primary road fund.

[C71, §316.7; C73, 75, 77, 79, 81, §316.15]

87 Acts, ch 232, §23