

FEB 8 1971
Commerce, Pass 3/25

Reprinted 6/4
HOUSE FILE 182

By HOLDEN, STROMER, PRIEBE,
and FISCHER of Grundy
(Briles, Ollenburg, and
Griffin)

Passed House, Date 4-2-71 Passed Senate, Date _____

Vote: Ayes 61 Nays 29 Vote: Ayes _____ Nays _____

Approved _____

Motion to reconsider filed 4/2 provided 5/28
Passed House 5-28-71
ayes 82, nays 0

A BILL FOR

- 1 An Act relating to compensation for refinancing costs where
- 2 property is acquired for a public use.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 Section 1. Where property is condemned or acquired for a
- 5 public use, the property owner shall receive compensation for
- 6 all costs incurred in financing the purchase of another prop-
- 7 erty similar to the property acquired, within eighteen months
- 8 from the date of acquisition, if at the time of the acquisition
- 9 the property condemned or acquired was subject to a mortgage or
- 10 was held under a land contract.
- 11 The property owner shall receive the increased interest cost,
- 12 if any, above that provided in the original mortgage or land
- 13 contract. The computation of the increased interest costs shall
- 14 be based upon:
- 15 1. A principal amount of indebtedness not to exceed the
- 16 unpaid debt at the time of the acquisition.
- 17 2. A term not to exceed the remaining term of the original
- 18 mortgage or land contract.
- 19 3. An interest rate not to exceed the prevailing rate
- 20 charged by financial institutions doing business in the vicinity
- 21 of the acquisition.
- 22 4. The present worth of the future payments of increased
- 23 interest computed at the same rate of interest as provided in
- 24 subsection three (3).
- 25 The costs shall also include reasonable fees, commissions,

H.F. 182

1 discounts, surveying costs, and title evidence costs necessary
2 to refinance the balance of the debt at the time of the taking
3 if actually incurred.

4 EXPLANATION

5 This bill provides that when any land is taken for a public
6 use, the property owner is entitled to compensation for refinanc-
7 ing the acquisition of property to replace the property acquired
8 for the public use. The property owner may recover increased
9 interest costs, reasonable fees, commissions, discounts, survey-
10 ing costs, and title evidence costs incurred.

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May 24, 1971

HOUSE FILE 182

1 Amend House File 182 as follows:

2 1. By striking all after the enacting clause and
3 inserting the following sections:

4 Section 1. DEFINITIONS. As used in this Act the
5 term:

6 1. "Person" means any individual, partnership,
7 corporation, or association.

8 2. "Displaced person" means any person who moves
9 from real property, or moves his personal property
10 from real property, as a result of the acquisition
11 of such real property, in whole or in part, or as
12 the result of the written order of an acquiring agency
13 to vacate real property, for a program or project
14 undertaken by the state highway commission with federal
15 highway assistance; and solely for the purposes of
16 sections four (4) and seven (7) of this Act, as a
17 result of the acquisition of or as the result of the
18 written order of the commission to vacate other real
19 property, on which such person conducts a business
20 or farm operation, for such program or project.

21 3. "Business" means any lawful activity, excepting
22 a farm operation, conducted primarily:

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

27 b. For the sale of services to the public;

28 c. By a nonprofit organization; or

29 d. Solely for the purposes of section four (4),
30 subsection one (1) of this Act, for assisting in the
31 purchase, sale, resale, manufacture, processing, or
32 marketing of products, commodities, personal property,
33 or services by the erection and maintenance of an
34 outdoor advertising display or displays, whether or
35 not such display or displays are located on the
36 premises on which any of the above activities are
37 conducted.

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

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

50 6. "Federal agency" means any department, agency,

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51 or instrumentality in the executive branch of the
52 federal government, and any wholly owned federal
53 government corporation.

54 7. "Commission" means the state highway commission.

55 8. "Highway project" means any federal-aid street
56 or highway project requiring the purchase or
57 condemnation of private property for public use.

58 9. "Departmental rules" means all rules subject
59 to the provisions of chapter seventeen A (17A) of
60 the Code.

61 Sec. 2. EFFECT UPON PROPERTY ACQUISITION.

62 1. The provisions of this Act shall not affect
63 the validity of any property acquisitions by purchase
64 or condemnation.

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

70 3. In order to prevent unjust enrichment or a
71 duplication of payments to any condemnee, the courts
72 of this state, when determining just compensation
73 in condemnation proceedings, shall not allow any
74 damages which duplicate any of the benefits provided
75 under the provisions of this Act.

76 Sec. 3. DECLARATION OF POLICY. The purpose of
77 this Act is to establish a uniform policy for the
78 fair and equitable treatment of persons displaced
79 as a result of state and federally assisted highway
80 programs in order that such persons shall not suffer
81 disproportionate injuries as a result of programs
82 designed for the benefit of the public as a whole.
83 The general assembly declares that replacement housing
84 for persons displaced by highway projects is a
85 necessary and essential part of such highway projects.
86 This Act shall be known and may be cited as the
87 "Highway Relocation Assistance Law".

88 Sec. 4. MOVING AND RELATED EXPENSES.

89 1. Whenever the acquisition of real property for
90 a program or project undertaken by the commission
91 will result in the displacement of any person, the
92 commission shall make a payment to any displaced
93 person, upon proper application as approved by such
94 commission, for:

95 a. Actual reasonable expenses in moving himself,
96 his family, business, farm operation, or other personal
97 property;

98 b. Actual direct losses of tangible personal
99 property as a result of moving or discontinuing a
100 business or farm operation, but not to exceed an

101 amount equal to the reasonable expenses that would
102 have been required to relocate such property, as
103 determined by the commission; and

104 c. Actual reasonable expenses in searching for
105 a replacement business or farm.

106 2. Any displaced person eligible for payments
107 under subsection one (1) of this section who is
108 displaced from a dwelling and who elects to accept
109 the payments authorized by this subsection in lieu
110 of the payments authorized by subsection one (1) of
111 this section may receive a moving expense allowance,
112 determined according to a schedule established by
113 the commission not to exceed three hundred dollars;
114 and a dislocation allowance of two hundred dollars.

115 3. Any displaced person eligible for payments
116 under subsection one (1) of this section who is
117 displaced from his place of business or from his farm
118 operation and who elects to accept the payment
119 authorized by this subsection in lieu of the payment
120 authorized by subsection one (1) of this section,
121 may receive a fixed payment in an amount equal to
122 the average annual net earnings of the business or
123 farm operation, except that such payment shall be
124 not less than two thousand five hundred dollars nor
125 more than ten thousand dollars. In the case of a
126 business, no payment shall be made under this
127 subsection unless the commission is satisfied that
128 the business cannot be relocated without a substantial
129 loss of its existing patronage, and is not a part
130 of a commercial enterprise having at least one other
131 establishment not being acquired for a highway project
132 which is engaged in the same or similar business.
133 For purposes of this subsection, the term "average
134 annual net earnings" means one-half of any net earnings
135 of the business or farm operation, before federal,
136 state, and local income taxes, during the two taxable
137 years immediately preceding the taxable year in which
138 such business or farm operation moves from the real
139 property acquired for such project, or during such
140 other period as the commission determines to be more
141 equitable for establishing such earnings, and includes
142 any compensation paid by the business or farm operation
143 to the owner, his spouse, or his dependents during
144 such period.

145 Sec. 5. REPLACEMENT HOUSING FOR HOMEOWNER.

146 1. In addition to payments otherwise authorized
147 by this Act, the commission shall make an additional
148 payment not in excess of fifteen thousand dollars
149 to any displaced person who is displaced from a
150 dwelling actually owned and occupied by such displaced

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151 person for not less than one hundred eighty days
152 prior to the initiation of negotiations for the
153 acquisition of the property. Such additional payment
154 shall include the following elements:

155 a. The amount, if any, which when added to the
156 acquisition cost of the dwelling acquired by the com-
157 mission, equals the reasonable cost of a comparable
158 replacement dwelling which is a decent, safe, and
159 sanitary dwelling adequate to accommodate such dis-
160 placed person, reasonably accessible to public ser-
161 vices and places of employment and available on the
162 private market. All determinations required to carry
163 out this paragraph shall be made in accordance with
164 departmental rules established by the commission in
165 making these additional payments.

166 b. The amount, if any, which will compensate such
167 displaced person for any increased interest costs
168 which such person is required to pay for financing
169 the acquisition of any such comparable replacement
170 dwelling. Such amount shall be paid only if the
171 dwelling acquired by the commission was encumbered
172 by a bona fide mortgage which was a valid lien on
173 such dwelling for not less than one hundred and eighty
174 days prior to the initiation of negotiations for the
175 acquisition of such dwelling. Such amount shall be
176 equal to the excess in the aggregate interest and
177 other debt service costs of that amount of the
178 principal of the mortgage on the replacement dwelling
179 which is equal to the unpaid balance of the mortgage
180 on the acquired dwelling, over the remainder term
181 of the mortgage on the acquired dwelling, reduced
182 to discounted present value. The discount rate shall
183 be the prevailing interest rate paid on savings
184 deposits by commercial banks in the general area in
185 which the replacement dwelling is located.

186 c. Reasonable expenses incurred by such displaced
187 person for evidence of title, recording fees, and
188 other closing costs incident to the purchase of the
189 replacement dwelling, but not including prepaid
190 expenses.

191 2. The additional payment authorized by this
192 section shall be made only to such a displaced person
193 who purchases and occupies a replacement dwelling
194 which is decent, safe, and sanitary not later than
195 the end of the one-year period beginning on the date
196 on which he receives from the commission final payment
197 of all costs of the acquired dwelling, or on the date
198 on which he moves from the acquired dwelling, whichever
199 is the later date.

200 Sec. 6. REPLACEMENT HOUSING FOR TENANTS AND CERTAIN

201 OTHERS. In addition to amounts otherwise authorized
202 by this Act, the commission shall make a payment to
203 or for any displaced person displaced from any dwelling
204 not eligible to receive a payment under section five
205 (5) which dwelling was actually and lawfully occupied
206 by such displaced person for not less than ninety
207 days prior to the initiation of negotiations for
208 acquisition of such dwelling. Such payment shall
209 be either:

210 1. The amount necessary to enable such displaced
211 person to lease or rent for a period not to exceed
212 four years, a decent, safe, and sanitary dwelling
213 of standards adequate to accommodate such person in
214 areas not generally less desirable in regard to public
215 utilities and public and commercial facilities, and
216 reasonably accessible to his place of employment,
217 but not to exceed four thousand dollars, or

218 2. The amount necessary to enable such person
219 to make a down payment, including incidental expenses
220 described in section five (5), subsection one (1),
221 paragraph c, of this Act, on the purchase of a decent,
222 safe, and sanitary dwelling of standards adequate
223 to accommodate such person in areas not generally
224 less desirable in regard to public utilities and
225 public and commercial facilities, but not to exceed
226 four thousand dollars, except that if such amount
227 exceeds two thousand dollars, such person must equally
228 match any such amount in excess of two thousand
229 dollars, in making down payment.

230 Sec. 7. RELOCATION ASSISTANCE ADVISORY SERVICES.

231 1. Whichever the acquisition of real property for
232 a highway project undertaken by the commission will
233 result in the displacement of any person, the
234 commission shall provide a relocation assistance
235 advisory program for displaced persons which shall
236 offer the services described in subsection three (3)
237 of this section. If the commission determines that
238 any person occupying property immediately adjacent
239 to the real property acquired is caused substantial
240 economic injury because of the acquisition, he may
241 offer such person relocation advisory services under
242 such program.

243 2. The commission shall cooperate to the maximum
244 extent feasible with federal, state or local agencies
245 to assure that such displaced persons receive the
246 maximum assistance available to them.

247 3. Each relocation assistance advisory program
248 required by subsection one (1) of this section shall
249 include such measures, facilities, or services as
250 may be necessary or appropriate in order to:

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- 251 a. Determine the need, if any, of displaced per-
252 sons, for relocation assistance;
- 253 b. Provide current and continuing information
254 on the availability, prices, and rentals, of comparable
255 decent, safe, and sanitary sales and rental housing,
256 and of comparable commercial properties and locations
257 for displaced businesses;
- 258 c. Assure that, within a reasonable period of
259 time, prior to displacement there will be available
260 in areas not generally less desirable in regard to
261 public utilities and public and commercial facilities
262 and at rents or prices within the financial means
263 of the families and individuals displaced, decent,
264 safe, and sanitary dwellings, as defined by the
265 commission, equal in number to the number of and
266 available to such displaced persons who require such
267 dwellings and reasonably accessible to their places
268 of employment, except that the commission may prescribe
269 by departmental rules situations when such assurances
270 may be waived.
- 271 d. Assist a displaced person displaced from his
272 business or farm operation in obtaining and becoming
273 established in a suitable replacement location;
- 274 e. Supply information concerning federal and state
275 housing programs, and other federal or state programs
276 offering assistance to displaced persons; and
- 277 f. Provide other advisory services to displaced
278 persons in order to minimize hardships to such persons
279 in adjusting to relocation.
- 280 4. The commission shall coordinate relocation
281 activities with project work, and other planned or
282 proposed governmental actions in the community or
283 nearby areas which may affect the carrying out of
284 relocation assistance programs.
- 285 Sec. 8. HOUSING REPLACEMENT BY COMMISSION AS LAST
286 RESORT.
- 287 1. If a highway project cannot proceed to actual
288 construction because comparable replacement sale or
289 rental housing is not available, and the commission
290 determines that such housing cannot otherwise be made
291 available, the commission may take such action as
292 is necessary or appropriate to provide such housing
293 by use of funds authorized for such project. The
294 commission may let contracts for the construction
295 of said housing to approve plans and specifications
296 for the building thereof, and to supervise, inspect
297 and approve the housing once constructed in order
298 that the housing so constructed complies with the
299 terms and conditions of this Act.
- 300 2. No person shall be required to move from his

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301 dwelling on or after July 1, 1971, on account of any
302 highway project, unless the commission is satisfied
303 that replacement housing, in accordance with section
304 seven (7), subsection three (3), paragraph c, of this
305 Act, is available to such person.

306 Sec. 9. RULES ADOPTED. The commission shall make
307 departmental rules and regulations necessary to effect
308 the provisions of this Act and to assure:

309 1. Compliance with the Uniform Relocation
310 Assistance and Real property Acquisition Policies
311 Act of 1970, Public Law 91-646.

312 2. The payments authorized by this Act are fair
313 and reasonable and as uniform as practicable.

314 3. A displaced person who makes proper application
315 for a payment authorized by this Act is paid promptly
316 after a move or, in hardship cases, is paid in advance.

317 4. Any person aggrieved by a determination as
318 to eligibility for a payment authorized by this Act,
319 or the amount of a payment, may have his application
320 reviewed by the commission.

321 All rules shall be subject to the provisions of
322 chapter seventeen A (17A) of the Code.

323 Sec. 10. APPLICABLE TO OTHER THAN FEDERAL AID
324 HIGHWAYS. The commission or any political subdivision
325 may provide all or a part of the programs and payments
326 authorized under this Act to persons displaced by
327 any street or highway project which is financed in
328 whole or in part by the state or a political
329 subdivision, which is not a federal-aid project, and
330 which requires the purchase or condemnation of private
331 property for public use. To the extent that a program
332 or payment is provided under this section, it shall
333 be provided on a uniform basis to all persons so
334 displaced. The commission shall make departmental
335 rules and regulations to assure reasonable standards
336 which need not conform to federal rules and guidelines,
337 for programs and payments provided under this section.

338 Sec. 11. ACQUISITIONS BY OTHER STATE AGENCIES
339 AND POLITICAL SUBDIVISIONS. Whenever real property
340 is acquired by a state agency or a political
341 subdivision of the state incident to a federal project
342 or program, the state agency or political subdivision
343 is hereby authorized and shall make all payments and
344 provide all services required by this Act of the
345 commission in order to secure the federal funds
346 available for such project or program.

347 Sec. 12. PAYMENTS NOT TO BE CONSIDERED AS INCOME.
348 No payment received under this Act shall be considered
349 as income for the purposes of chapter four hundred
350 twenty-two (422) of the Code.

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351 Sec. 13. ADMINISTRATION. In order to prevent
352 unnecessary expenses and duplications of functions,
353 and to promote uniform and effective administration
354 of relocation assistance programs for displaced
355 persons, the commission may enter into contracts with
356 any individual, firm, association, or corporation
357 for services in connection with such programs, or
358 may carry out its functions through any governmental
359 agency, political subdivision, or instrumentality
360 having an established organization for conducting
361 relocation assistance programs. The commission shall,
362 in carrying out the relocation assistance activities
363 described in section eight (8) whenever practicable,
364 utilize the services of state or local housing
365 agencies, or other agencies having experience in the
366 administration or conduct of similar housing assistance
367 activities.

368 Sec. 14. FUNDING. Payments and expenditures under
369 the provisions of this Act are incident to and arise
370 out of the construction, maintenance, and supervision
371 of public highways and streets, and, in the case of
372 any federal-aid highway project, may be made by the
373 commission from the primary road fund and funds made
374 available by the federal government for the purpose
375 of carrying out the provisions of this Act. Payments
376 made under authority of section ten (10) of this Act
377 may be made from the primary road fund in case of
378 a primary road project only, and in other cases may
379 be made from the secondary road fund or from
380 appropriate funds under control of a political
381 subdivision.

382 Sec. 15. FEDERAL GRANTS. The commission may do
383 all things necessary to carry out the provisions of
384 this Act and to secure federal grants to make the
385 payments required by this Act, but the absence of
386 federal aid to make such payments shall not discharge
387 the obligation to make the payments.

388 Sec. 16. Chapter three hundred sixteen (316),
389 Code 1971, is repealed.

390 Sec. 17. Section four hundred seventy-two point
391 forty-two (472.42), Code 1971, is amended as follows:

392 472.42 EMINENT DOMAIN--PAYMENT TO DISPLACED
393 PERSONS. Any utility or railroad subject to section
394 474.10, chapter 490, or chapter 490A, authorized by
395 law to acquire property by condemnation that does
396 acquire the property of any person who is displaced
397 thereby after July 1, ~~1970~~ 1971, shall pay to such
398 person in addition to all other sums of money required
399 by law a displacement allowance in accordance with
400 and in the same manner as provided for acquisition

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401 for highway projects in sections ~~316-37~~-316-4-and
402 ~~316-5~~ 4, 5, 6 and 8 of this Act. In the application
403 of said sections to utilities and railroads, the term
404 "commission" shall mean the Iowa state commerce
405 commission. The displacement allowance shall be paid
406 in the manner provided in ~~that chapter~~ sections 4,
407 5, 6 and 8 of this Act and pursuant to the rules and
408 regulations promulgated by the commission. Any person
409 aggrieved by a determination as to eligibility for
410 a payment or the amount of such payment may, upon
411 application, have the matter reviewed by the
412 commission. The decision of the commission upon
413 review shall be final as to all parties. Any utility
414 or railroad subject to this section that proposes
415 to acquire the property of any person who will be
416 displaced by such acquisition shall inform such person
417 of his right to receive a displacement allowance and,
418 if his entitlement thereto or the amount thereof is
419 in dispute, his right of appeal to the commission.
420 2. Page 1, amend the title by striking all after
421 the word "Act" on line 1 and all of line 2 and insert-
422 ing in lieu thereof the words "providing a relocation
423 advisory assistance program and relocation payments
424 to persons displaced by highway projects."

Filed - *Adopted 5/28*
May 21, 1971

By HILL of Polk, District 62
HOLDEN of Scott, District 75
WELDEN of Hardin, District 32

EXPLANATION OF AMENDMENT

On January 2, 1971, the 91st Congress passed the "Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970". This amendment requires state compliance with the federal act in order to obtain federal funds for highway projects. The amendment complies with the requirements of the federal act and provides the state can provide similar services for highway projects financed entirely by state funds in order to make relocation assistance policies uniform regardless of funding. In addition, the present relocation assistance bill is repealed and utilities and railroads who acquire property by eminent domain are required to comply with the provisions of this amendment.

This amendment liberalizes and greatly broadens the benefits payable to persons displaced by highway projects. The enactment of this amendment will insure, insofar as is possible and practical, that persons displaced by highway projects are placed in decent, safe, and sanitary replacement housing, and that they have suffered no pecuniary loss by reason of being displaced from their existing dwelling.

SENATE AMENDMENT TO HOUSE FILE 182

- 1 Amend House File 182, as amended, passed and reprinted by the
- 2 House as follows:
- 3 1. Page 5, by striking in lines 10 and 11 the words "the
- 4 commission is satisfied that".
- 5 2. Page 5, by striking in line 23 the words "as the commission
- 6 determines to be" and inserting in lieu thereof the following:
- 7 "which is".

Received from the Senate.
June 16, 1971

House refused to concur 6/17
Senate readied 6/18

- 1 Amend House File 182, as amended and passed by the
- 2 House of Representatives, page 14, by inserting after line
- 3 16 the following new section:
- 4 "Section three hundred thirteen point twenty-one
- 5 (313.21), Code 1971, is amended by adding the following
- 6 new paragraph:
- 7 'When the state highway commission has determined the
- 8 location of a proposed primary road extension of a freeway
- 9 or expressway through a city or town, the location of the
- 10 proposed primary road extension shall be submitted by the
- 11 city or town council to the voters of the city or town for
- 12 approval at the next regular municipal election or at a
- 13 special election held for that purpose. If a majority of
- 14 votes cast are in favor of the location of the proposed
- 15 primary road extension, the state highway commission may
- 16 proceed with the planning, design, and construction of
- 17 the proposed primary road extension. If a majority of the
- 18 votes cast are not in favor of the location of the pro-
- 19 posed primary road extension, the proposed location shall
- 20 not be used."

Filed and ruled
out of order.
June 16, 1971

By WALSH

Senate

- 1 Amend House File 182, page 5, line 13, by adding a period
- 2 after the word "patronage" and striking the words in line 13, line
- 3 14, line 15, and the words "similar business" in line 16.

Filed and lost.
June 16, 1971

By WALSH

Senate

- 1 Amend House File 182 as amended, passed and reprinted by the House,
- 2 Page 5 by striking in line 23 the words, "as the commission
- 3 determines to be" and inserting in lieu thereof the words, "which
- 4 is".

Filed and adopted.
June 16, 1971

By POTTER

Senate

- 1 Amend House File 182, as amended and passed by the
- 2 House, and reprinted, page 5, by striking in lines 10
- 3 and 11 the words "the commission is satisfied that".

Filed and adopted.
June 16, 1971

By GAUDINEER

Senate

June 4, 1971

Sen. Trans., Pass 6/7

HOUSE FILE 182
By HOLDEN, STROMER, PRIEBE
and FISCHER of Grundy
(Briles, Ollenburg and
Griffin)

(AS AMENDED AND PASSED BY THE HOUSE)

Passed House, Date 5-28-71 Passed Senate, Date 6-16-71

Vote: Ayes 82 Nays 0 Vote: Ayes 42 Nays 0

Approved June 30, 1971
Passed Senate after reading from amendment
6-18-71
aye 43, nays 2

A BILL FOR

- 1 An Act providing a relocation advisory assistance program
- 2 and relocation payments to persons displaced by
- 3 highway projects.
- 4 *Be It Enacted by the General Assembly of the State of Iowa:*
- 5 Section 1. DEFINITIONS. As used in this Act the term:
- 6 1. "Person" means any individual, partnership,
- 7 corporation, or association.
- 8 2. "Displaced person" means any person who moves from
- 9 real property, or moves his personal property from real
- 10 property, as a result of the acquisition of such real
- 11 property, in whole or in part, or as the result of the
- 12 written order of an acquiring agency to vacate real property,
- 13 for a program or project undertaken by the state highway
- 14 commission with federal highway assistance; and solely
- 15 for the purposes of sections four (4) and seven (7) of
- 16 this Act, as a result of the acquisition of or as the
- 17 result of the written order of the commission to vacate
- 18 other real property, on which such person conducts a
- 19 business or farm operation, for such program or project.
- 20 3. "Business" means any lawful activity, excepting
- 21 a farm operation, conducted primarily:
- 22 a. For the purchase, sale, lease and rental of personal
- 23 and real property, and for the manufacture, processing, or
- 24 marketing of products, commodities, or any other personal
- 25 property;

- 26 b. For the sale of services to the public;
- 27 c. By a nonprofit organization; or
- 28 d. Solely for the purposes of section four (4), sub-
- 29 section one (1) of this Act, for assisting in the purchase,
- 30 sale, resale, manufacture, processing, or marketing of
- 31 products, commodities, personal property, or services by

1 the erection and maintenance of an outdoor advertising
2 display or displays, whether or not such display or
3 displays are located on the premises on which any of
4 the above activities are conducted.

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

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

17 6. "Federal agency" means any department, agency, or
18 instrumentality in the executive branch of the federal
19 government, and any wholly owned federal government
20 corporation.

21 7. "Commission" means the state highway commission.

22 8. "Highway project" means any federal-aid street or
23 highway project requiring the purchase or condemnation of
24 private property for public use.

25 9. "Departmental rules" means all rules subject to
26 the provisions of chapter seventeen A (17A) of the Code.

1 Sec. 2. EFFECT UPON PROPERTY ACQUISITION.

2 1. The provisions of this Act shall not affect the
3 validity of any property acquisitions by purchase or
4 condemnation.

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

9 3. In order to prevent unjust enrichment or a duplica-
10 tion of payments to any condemnee, the courts of this
11 state, when determining just compensation in condemnation
12 proceedings, shall not allow any damages which duplicate
13 any of the benefits provided under the provisions of this
14 Act.

15 Sec. 3. DECLARATION OF POLICY. The purpose of this
16 Act is to establish a uniform policy for the fair and
17 equitable treatment of persons displaced as a result of
18 state and federally assisted highway programs in order
19 that such persons shall not suffer disproportionate injuries
20 as a result of programs designed for the benefit of the
21 public as a whole. The general assembly declares that
22 replacement housing for persons displaced by highway projects
23 is a necessary and essential part of such highway projects.
24 This Act shall be known and may be cited as the "Highway
25 Relocation Assistance Law".

1 **Sec. 4. MOVING AND RELATED EXPENSES.**

2 **1. Whenever the acquisition of real property for a**
3 **program or project undertaken by the commission will result**
4 **in the displacement of any person, the commission shall**
5 **make a payment to any displaced person, upon proper**
6 **application as approved by such commission, for:**

7 **a. Actual reasonable expenses in moving himself, his**
8 **family, business, farm operation, or other personal**
9 **property;**

10 **b. Actual direct losses of tangible personal property**
11 **as a result of moving or discontinuing a business or farm**
12 **operation, but not to exceed an amount equal to the**
13 **reasonable expenses that would have been required to re-**
14 **locate such property, as determined by the commission; and**

15 **c. Actual reasonable expenses in searching for a**
16 **replacement business or farm.**

17 **2. Any displaced person eligible for payments under**
18 **subsection one (1) of this section who is displaced from**
19 **a dwelling and who elects to accept the payments**
20 **authorized by this subsection in lieu of the payments**
21 **authorized by subsection one (1) of this section may**
22 **receive a moving expense allowance, determined according**
23 **to a schedule established by the commission not to exceed**
24 **three hundred dollars; and a dislocation allowance of two**
25 **hundred dollars.**

26 **3. Any displaced person eligible for payments under**

1 subsection one (1) of this section who is displaced from
2 his place of business or from his farm operation and who
3 elects to accept the payment authorized by this subsection
4 in lieu of the payment authorized by subsection one (1)
5 of this section, may receive a fixed payment in an amount
6 equal to the average annual net earnings of the business
7 or farm operation, except that such payment shall be not
8 less than two thousand five hundred dollars nor more
9 than ten thousand dollars. In the case of a business, no
10 payment shall be made under this subsection unless the
11 commission is satisfied that the business cannot be
12 relocated without a substantial loss of its existing
13 patronage, and is not a part of a commercial enterprise
14 having at least one other establishment not being acquired
15 for a highway project which is engaged in the same or
16 similar business. For purposes of this subsection, the
17 term "average annual net earnings" means one-half of any
18 net earnings of the business or farm operation, before
19 federal, state, and local income taxes, during the two
20 taxable years immediately preceding the taxable year in
21 which such business or farm operation moves from the real
22 property acquired for such project, or during such other
23 period as the commission determines to be more equitable
24 for establishing such earnings, and includes any compensa-
25 tion paid by the business or farm operation to the owner,

1 his spouse, or his dependents during such period.

2 Sec. 5. REPLACEMENT HOUSING FOR HOMEOWNER.

3 1. In addition to payments otherwise authorized by
4 this Act, the commission shall make an additional payment
5 not in excess of fifteen thousand dollars to any displaced
6 person who is displaced from a dwelling actually owned and
7 occupied by such displaced person for not less than one
8 hundred eighty days prior to the initiation of negotiations
9 for the acquisition of the property. Such additional payment
10 shall include the following elements:

11 a. The amount, if any, which when added to the
12 acquisition cost of the dwelling acquired by the commission,
13 equals the reasonable cost of a comparable replacement
14 dwelling which is a decent, safe, and sanitary dwelling
15 adequate to accommodate such displaced person, reasonably
16 accessible to public services and places of employment
17 and available on the private market. All determinations
18 required to carry out this paragraph shall be made in
19 accordance with departmental rules established by the
20 commission in making these additional payments.

21 b. The amount, if any, which will compensate such
22 displaced person for any increased interest costs which such
23 person is required to pay for financing the acquisition of
24 any such comparable replacement dwelling. Such amount
25 shall be paid only if the dwelling acquired by the commission

1 was encumbered by a bona fide mortgage which was a valid
2 lien on such dwelling for not less than one hundred and
3 eighty days prior to the initiation of negotiations for
4 the acquisition of such dwelling. Such amount shall be
5 equal to the excess in the aggregate interest and other
6 debt service costs of that amount of the principal of
7 the mortgage on the replacement dwelling which is equal
8 to the unpaid balance of the mortgage on the acquired
9 dwelling, over the remainder term of the mortgage on the
10 acquired dwelling, reduced to discounted present value.

11 The discount rate shall be the prevailing interest
12 rate paid on savings deposits by commercial banks in
13 the general area in which the replacement dwelling is
14 located.

15 c. Reasonable expenses incurred by such displaced
16 person for evidence of title, recording fees, and other
17 closing costs incident to the purchase of the replacement
18 dwelling, but not including prepaid expenses.

19 2. The additional payment authorized by this section
20 shall be made only to such a displaced person who purchases
21 and occupies a replacement dwelling which is decent, safe,
22 and sanitary not later than the end of the one-year period
23 beginning on the date on which he receives from the
24 commission final payment of all costs of the acquired dwelling,
25 or on the date on which he moves from the acquired dwelling,
26 whichever is the later date.

1 exceeds two thousand dollars, such person must equally
2 match any such amount in excess of two thousand dollars,
3 in making the down payment.

4 Sec. 7. RELOCATION ASSISTANCE ADVISORY SERVICES.

5 1. Whenever the acquisition of real property for a
6 highway project undertaken by the commission will result
7 in the displacement of any person, the commission shall
8 provide a relocation assistance advisory program for
9 displaced persons which shall offer the services described
10 in subsection three (3) of this section. If the commission
11 determines that any person occupying property immediately
12 adjacent to the real property acquired is caused substantial
13 economic injury because of the acquisition, he may offer
14 such person relocation advisory services under such
15 program.

16 2. The commission shall cooperate to the maximum extent
17 feasible with federal, state or local agencies to assure that
18 such displaced persons receive the maximum assistance
19 available to them.

20 3. Each relocation assistance advisory program required
21 by subsection one (1) of this section shall include such
22 measures, facilities, or services as may be necessary or
23 appropriate in order to:

24 a. Determine the need, if any, of displaced persons,
25 for relocation assistance;

- 1 b. Provide current and continuing information on the
- 2 availability, prices, and rentals, of comparable decent,
- 3 safe, and sanitary sales and rental housing, and of
- 4 comparable commercial properties and locations for
- 5 displaced businesses;
- 6 c. Assure that, within a reasonable period of time,
- 7 prior to displacement there will be available in areas
- 8 not generally less desirable in regard to public utilities
- 9 and public and commercial facilities and at rents or prices
- 10 within the financial means of the families and individuals
- 11 displaced, decent, safe, and sanitary dwellings, as defined
- 12 by the commission, equal in number to the number of and
- 13 available to such displaced persons who require such
- 14 dwellings and reasonably accessible to their places of
- 15 employment, except that the commission may prescribe by
- 16 departmental rules situations when such assurances may be
- 17 waived;
- 18 d. Assist a displaced person displaced from his business
- 19 or farm operation in obtaining and becoming established in
- 20 a suitable replacement location;
- 21 e. Supply information concerning federal and state housing
- 22 programs, and other federal or state programs offering
- 23 assistance to displaced persons; and
- 24 f. Provide other advisory services to displaced persons
- 25 in order to minimize hardships to such persons in adjusting
- 26 to relocation.

1 4. The commission shall coordinate relocation activities
2 with project work, and other planned or proposed
3 governmental actions in the community or nearby areas which
4 may affect the carrying out of relocation assistance programs.

5 Sec. 8. HOUSING REPLACEMENT BY COMMISSION AS LAST
6 RESORT.

6 1. If a highway project cannot proceed to actual
7 construction because comparable replacement sale or rental
8 housing is not available, and the commission determines
9 that such housing cannot otherwise be made available, the
10 commission may take such action as is necessary or appropriate
11 to provide such housing by use of funds authorized for such
12 project. The commission may let contracts for the
13 construction of said housing to approve plans and specifica-
14 tions for the building thereof, and to supervise, inspect
15 and approve the housing once constructed in order that the
16 housing so constructed complies with the terms and
17 conditions of this Act.

18 2. No person shall be required to move from his dwelling
19 on or after July 1, 1971, on account of any highway project,
20 unless the commission is satisfied that replacement housing,
21 in accordance with section seven (7), subsection three (3),
22 paragraph c, of this Act, is available to such person.

23 Sec. 9. RULES ADOPTED. The commission shall make
24 departmental rules and regulations necessary to effect the
25 provisions of this Act and to assure:

26 1. Compliance with the Uniform Relocation Assistance
27 and Real Property Acquisition Policies Act of 1970, Public
28 Law 91-646.

1 2. The payments authorized by this Act are fair and
2 reasonable and as uniform as practicable.

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

6 4. Any person aggrieved by a determination as to
7 eligibility for a payment authorized by this Act, or the
8 amount of a payment, may have his application reviewed by
9 the commission.

10 All rules shall be subject to the provisions of chapter
11 seventeen A (17A) of the Code.

12 Sec. 10. **APPLICABLE TO OTHER THAN FEDERAL AID
13 HIGHWAYS.**

14 The commission or any political subdivision may provide all
15 or a part of the programs and payments authorized under this
16 Act to persons displaced by any street or highway project
17 which is financed in whole or in part by the state or a
18 political subdivision, which is not a federal-aid project,
19 and which requires the purchase or condemnation of private
20 property for public use. To the extent that a program or
21 payment is provided under this section, it shall be provided
22 on a uniform basis to all persons so displaced. The commission
23 shall make departmental rules and regulations to assure
24 reasonable standards, which need not conform to federal rules
25 and guidelines, for programs and payments provided under this
26 section.

26 Sec. 11. **ACQUISITIONS BY OTHER STATE AGENCIES AND
27 POLITICAL SUBDIVISIONS.** Whenever real property is acquired by

1 a state agency or a political subdivision of the state
2 incident to a federal project or program, the state
3 agency or political subdivision is hereby authorized and
4 shall make all payments and provide all services required
5 by this Act of the commission in order to secure the
6 federal funds available for such project or program.

7 Sec. 12. PAYMENTS NOT TO BE CONSIDERED AS INCOME.

8 No payment received under this Act shall be considered as
9 income for the purposes of chapter four hundred twenty-
10 two (422) of the Code.

11 Sec. 13. ADMINISTRATION. In order to prevent unnecessary
12 expenses and duplications of functions, and to promote
13 uniform and effective administration of relocation assistance
14 programs for displaced persons, the commission may enter into
15 contracts with any individual, firm, association, or
16 corporation for services in connection with such programs, or
17 may carry out its functions through any governmental agency,
18 political subdivision, or instrumentality having an
19 established organization for conducting relocation assistance
20 programs. The commission shall, in carrying out the
21 relocation assistance activities described in section eight (8)
22 whenever practicable, utilize the services of state or local
23 housing agencies, or other agencies having experience in the
24 administration or conduct of similar housing assistance
25 activities.

26 Sec. 14. FUNDING. Payments and expenditures under the
27 provisions of this Act are incident to and arise out of the

1 construction, maintenance, and supervision of public
2 highways and streets, and, in the case of any federal-aid
3 highway project, may be made by the commission from the
4 primary road fund and funds made available by the federal
5 government for the purpose of carrying out the provisions
6 of this Act. Payments made under authority of section
7 ten (10) of this Act may be made from the primary road
8 fund in case of a primary road project only, and in other
9 cases may be made from the secondary road fund or from
10 appropriate funds under control of a political subdivision.

11 Sec. 15. FEDERAL GRANTS. The commission may do all
12 things necessary to carry out the provisions of this Act
13 and to secure federal grants to make the payments
14 required by this Act, but the absence of federal aid to
15 make such payments shall not discharge the obligation to
16 make the payments.

17 Sec. 16. Chapter three hundred sixteen (316), Code
18 1971, is repealed.

19 Sec. 17. Section four hundred seventy-two point forty-
20 two (472.42), Code 1971, is amended as follows:

21 472.42 EMINENT DOMAIN—PAYMENT TO DISPLACED PER-
22 Any utility or railroad subject to section 474.10, chapter
23 490, or chapter 490A, authorized by law to acquire property
24 by condemnation that does acquire the property of any person
25 who is displaced thereby after July 1, [1970] 1971, shall
26 pay to such person in addition to all other sums of money
PERSONS.

1 required by law a displacement allowance in accordance with
2 and in the same manner as provided for acquisition for
3 highway projects in sections [316.3, 316.4 and 316.5] 4, 5, 6
4 and 8 of this Act. In the application of said sections
5 to utilities and railroads the term "commission" shall mean
6 the Iowa state commerce commission. The displacement
7 allowance shall be paid in the manner provided in [that chapter]
8 sections 4, 5, 6 and 8 of this Act and pursuant to the rules
9 and regulations promulgated by the commission. Any person
10 aggrieved by a determination as to eligibility for a payment
11 or the amount of such payment may, upon application, have
12 the matter reviewed by the commission. The decision of
13 the commission upon review shall be final as to all parties.
14 Any utility or railroad subject to this section that proposes
15 to acquire the property of any person who will be displaced
16 by such acquisition shall inform such person of his right
17 to receive a displacement allowance and, if his entitlement
18 thereto or the amount thereof is in dispute, his right of
19 appeal to the commission.

EXPLANATION

This bill provides that when any land is taken for a public use, the property owner is entitled to compensation for refinancing the acquisition of property to replace the property acquired for the public use. The property owner may recover increased interest costs, reasonable fees, commissions, discounts, surveying costs, and title evidence costs incurred.