

Memorandum 71-22

Study: Study 36.45 - Condemnation (Recoverable Costs When Right to Take Defeated)

When a condemnation action is abandoned by the condemnor, the condemnee is entitled to be reimbursed for his attorney fees, expert witness fees, and all other expenses incurred as a result of the proceeding. Subdivision (c), Section 1255a of the Code of Civil Procedure, amended as a result of a series of Commission recommendations, now provides:

(c) Upon the denial of a motion to set aside such abandonment or, if no such motion is filed, upon the expiration of the time for filing such a motion, on motion of any party, a judgment shall be entered dismissing the proceeding and awarding the defendants their recoverable costs and disbursements. Recoverable costs and disbursements include (1) all expenses reasonably and necessarily incurred in preparing for the condemnation trial, during the trial, and in any subsequent judicial proceedings in the condemnation action and (2) reasonable attorney fees, appraisal fees, and fees for the services of other experts where such fees were reasonably and necessarily incurred to protect the defendant's interests in preparing for the condemnation trial, during the trial, and in any subsequent judicial proceedings in the condemnation action, whether such fees were incurred for services rendered before or after the filing of the complaint. In case of a partial abandonment, recoverable costs and disbursements shall include only those recoverable costs and disbursements, or portions thereof, which would not have been incurred had the property or property interest sought to be taken after the partial abandonment been the property or property interest originally sought to be taken. Recoverable costs and disbursements, including expenses and fees, may be claimed in and by a cost bill, to be prepared, served, filed, and taxed as in civil actions. Upon judgment of dismissal on motion of the plaintiff, the cost bill shall be filed within 30 days after notice of entry of such judgment.

No provision of the California statutes requires similar reimbursement when the condemnee defeats a taking by showing lack of public use, lack of necessity (where this can be raised), lack of statutory authority, or other similar ground. However, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which applies in all federally assisted

projects, requires reimbursement for litigation expenses when the final judgment is that the condemnor cannot acquire the property by condemnation. Section 304 of the federal statute, which is made applicable to state and local takings by Section 305(2), provides:

Sec. 304. (a) The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if--

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

(2) the proceeding is abandoned by the United States.

(b) Any award made pursuant to subsection (a) of this section shall be paid by the head of the Federal agency for whose benefit the condemnation proceedings was instituted.

(c) The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of title 28, United States Code, awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

In view of this federal requirement, which will be applicable in a great many--if not most--takings by state and local public entities, the staff suggests that a provision based on subdivision (c) of Section 1255a be drafted to provide for recovery along the lines stated in subdivision (c) not only in abandonment cases (and the provision should be made clearly applicable to "implied abandonment"--where the condemnor fails to pay the judgment within the time required under Section 1251) but also in cases where the final judgment is that the condemnor does not have authority to take the property. If the staff recommendation is acceptable to the Commission, we will prepare a draft for consideration at a future meeting.

The federal statute may be interpreted to require reimbursement to the plaintiff in an inverse condemnation action for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceedings. See Section 7265.5(c) on pages 7-8 of Senate Bill 633 (1971) which appears to interpret the federal law to require reimbursement in inverse cases. We do not propose to consider this difficult problem at this time.

A copy of Senate Bill 633 is attached.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

Introduced by Senator Cologne

March 22, 1971

REFERRED TO COMMITTEE ON GOVERNMENTAL ORGANIZATION

An act to amend Sections 7260, 7261, 7262, 7263, 7264, and 7265 of, to amend and renumber Section 7267 of; to add Sections 7264.5, 7265.4, 7265.5, 7265.6, 7267, 7267.1, 7267.2, 7267.3, 7267.4, 7267.5, 7267.6, 7267.7, and 7267.8 to, and to repeal Section 7272 of, the Government Code, to amend Section 33415 of, and to repeal Section 33414 of, the Health and Safety Code, to amend Section 600 of the Public Utilities Code, and to repeal Article 3.5 (commencing with Section 156) of Chapter 1 of Division 1 of the Streets and Highways Code, relating to property acquisitions by public entities and public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 633, as introduced, Cologne (G.O.). Property acquisitions: relocation assistance.

Amends, amends and rennumbers, adds, repeals various secs., Gov.C., H. & S.C., P.U.C., S. & H.C.

Includes Department of Public Works within definition of "public entity."

Requires, rather than authorizes, public entities to provide relocation advisory assistance and to make additional specified payments to displaced persons. Specifies what advisory assistance shall include.

Increases allowable moving expense allowance from \$200 to \$300 and dislocation allowance from \$100 to \$200.

Specifies that the owner of a displaced business or farm operation, in lieu of receiving the above moving expense allowance and dislocation allowance, may receive a relocation payment equal to the average net earnings of the business or farm operation, but not be less than \$2,500 nor more than \$10,000.

Increases from \$5,000 to \$15,000 the additional payment that may be made to an owner of an acquired dwelling to enable him to acquire a comparable replacement dwelling. Specifies additional factors to be considered in determining such a payment. Decreases from one year to 180 days the period during which the owner must have actually owned and occupied the dwelling to be eligible for such payment.

Increases from \$1,500 to \$4,000 the additional payment that may be made to a displaced person to aid him to lease for four years, rather than two years, decent, safe, and sanitary dwelling, or to acquire such a dwelling.

Requires public entities to use funds authorized for the project for which the real property is being acquired for replacement housing, if no such housing is otherwise available.

Increases from \$5,000 to \$15,000 the payment that may be made for a decline in fair market value of property immediately contiguous to property acquired for airport purposes. Decreases from one year to 180 days the period during which the owner, to be eligible for such payment, must have owned the property prior to initiation of negotiation to acquire, rather than prior to first written offer for, the acquired property.

Requires public entities to pay expenses incidental to conveyance of property, penalty cost of prepaying the mortgage on the property, and the pro rata share of property tax on the property.

Requires public entities, when acquiring real property, to acquire equal interest in any improvement located thereon, if such improvement is to be removed therefrom or will be adversely affected by intended use of the real property. Specifies compensation to be paid tenant who has right to remove such improvement upon expiration of his lease. Prohibits such compensation to be duplication of other payments authorized.

Requires public entities to pay such amount as determined by the courts, to owners of real property for litigation expenses in specified condemnation proceedings.

Specifies guidelines to be followed by public entities in the acquisition of real property.

Makes above provisions applicable to all redevelopment agencies, rather than only to those redevelopment agencies acquiring real property in a county with a population of 4,000,000 or more.

Authorizes all public utilities acquiring real property by eminent domain, rather than only those public utilities so acquiring real property in a county with a population of 4,000,000 or more, to make above payments.

Vote—Majority; Appropriation—No; Fiscal Committee—Yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7260 of the Government Code is
- 2 amended to read:
- 3 7260. As used in this chapter:
- 4 (a) "Public entity" includes the state, the Regents of the
- 5 University of California, a county, city, city and county, dis-
- 6 trict, public authority, public agency, and any other political
- 7 subdivision or public corporation in the state when acquiring
- 8 real property, or any interest therein, in any city or county
- 9 for public use; except the Department of Public Works of this
- 10 state.

1 (b) "Displaced person" means any individual, family, busi-
2 ness, or farm operation, which moves from real property ac-
3 quired by a public entity for public use.

4 (c) "Individual" means a person who is not a member of a
5 family.

6 (d) "Family" means two or more persons living together
7 in the same dwelling unit who are related to each other by
8 blood, marriage, adoption, or legal guardianship.

9 (e) "Business" means any lawful activity conducted pri-
10 marily for purchase and resale, manufacture, processing, or
11 marketing of products, commodities, or other personal prop-
12 erty; or for the sale of services to the public; or by a nonprofit
13 corporation.

14 (f) "Farm operation" means any activity conducted pri-
15 marily for the production of one or more agricultural products
16 or commodities for sale and home use, and customarily pro-
17 ducing such products or commodities in sufficient quantity to
18 be capable of contributing materially to the operator's support.

19 (g) "Affected property" means any real property which
20 actually declines in fair market value because of acquisition
21 by a public entity for public use of other real property and a
22 change in the use of the real property acquired by the public
23 entity.

24 (h) "Public use" means a use for which real property may
25 be acquired by eminent domain.

26 (i) "Mortgage" means such classes of liens as are commonly
27 given to secure advances on, or the unpaid purchase price of,
28 real property, together with the credit instruments, if any,
29 secured thereby.

30 SEC. 2. Section 7261 of the Government Code is amended
31 to read:

32 7261. (a) A public entity is authorized to give shall pro-
33 vide relocation advisory assistance to any individual, family,
34 business, or farm operation displaced because of the acquisi-
35 tion of real property by that public entity for public use.

36 (b) In giving such assistance, the public entity may estab-
37 lish local relocation advisory assistance offices to assist in ob-
38 taining replacement facilities for individuals, families, and
39 businesses which it is necessary to relocate because of the ac-
40 quisition of real property by the public entity.

41 (c) Such advisory assistance shall include:

42 (1) Determining the need, if any, of displaced persons for
43 relocation assistance.

44 (2) Providing current and continuing information on the
45 availability, prices, and rentals of comparable decent, safe,
46 and sanitary housing for displaced persons, and of comparable
47 commercial properties and locations for displaced businesses.

48 (3) Assuring that, within a reasonable period of time, prior
49 to displacement, there will be available in areas not generally
50 less desirable in regard to public utilities and public and com-
51 mercial facilities, and at rents or prices within the financial
52 means of the families and individuals displaced, decent, safe,

1 and sanitary dwellings, equal in number to the number of, and
 2 available to, such displaced persons who require such dwellings
 3 and reasonably accessible to their places of employment.

4 (4) Assisting a displaced person displaced from his business
 5 or farm operation in obtaining and becoming established in a
 6 suitable replacement location.

7 (5) Supplying information concerning federal and state
 8 housing programs, disaster loan programs, and other federal
 9 or state programs offering assistance to displaced persons.

10 (6) Providing other advisory services to displaced persons
 11 in order to minimize hardships to such persons.

12 Sec. 3. Section 7262 of the Government Code is amended
 13 to read:

14 7262. (a) As a part of the cost of acquisition of real prop-
 15 erty for a public use, a public entity ~~may~~ shall compensate a
 16 displaced person for his actual and reasonable expense in mov-
 17 ing himself, family, business, or farm operation, including
 18 moving personal property.

19 (b) Any displaced person who moves from a dwelling who
 20 elects to accept payments authorized by this subdivision in lieu
 21 of the payments authorized by subdivision (a) of this section
 22 may shall receive a moving expense allowance, determined
 23 according to a schedule established by the public entity, not
 24 to exceed ~~two three~~ hundred dollars ~~(~~\$200~~)~~ (~~\$300~~), and in
 25 addition a dislocation allowance of ~~one two~~ hundred dollars
 26 ~~(~~\$100~~)~~ (~~\$200~~).

27 (c) Any displaced person who moves or discontinues his
 28 business or farm operation who elects to accept the payment
 29 authorized by this subdivision in lieu of the payment au-
 30 thorized by subdivision (a) of this section, may shall receive a
 31 fixed relocation payment in an amount equal to the average
 32 annual net earnings of the business or farm operation, or ~~five~~
 33 ~~thousand dollars~~ (~~\$5,000~~), whichever is less except that such
 34 payment shall not be less than two thousand five hundred dol-
 35 lars (~~\$2,500~~) nor more than ten thousand dollars (~~\$10,000~~).

36 In the case of a business, no payment shall be made under this
 37 subdivision, unless the public entity is satisfied that the busi-
 38 ness cannot be relocated without a substantial loss of pa-
 39 tronage; and is not a part of a commercial enterprise having
 40 at least one other establishment; not being acquired, which is
 41 engaged in the same or similar business. For purposes of this
 42 subdivision, the term "average annual net earnings" means
 43 one-half of any net earnings of the business, or farm operation,
 44 before federal, state, and local income taxes, during the two
 45 taxable years immediately preceding the taxable year in which
 46 such business or farm operation moves from the real property
 47 being acquired, or during such other period as the public en-
 48 tity determines to be more equitable for establishing such
 49 earnings, and includes any compensation paid by the business
 50 or farm operation to the owner, his spouse, or his dependents
 51 during such two-year or such other period. To be eligible for
 52 the payment authorized by this subdivision, the business or

1 farm operation shall make available its state income tax rec-
2 ords, and its financial statements and accounting records, for
3 audit for confidential use to determine the payment author-
4 ized by this subdivision.

5 Sec. 4. Section 7263 of the Government Code is amended
6 to read:

7 7263. (a) In addition to the payments ~~authorized required~~
8 by Section ~~7261~~ 7262, the public entity, as a part of the cost
9 of construction, ~~may~~ shall make a payment to the owner of
10 real property acquired for public use which is improved with
11 a ~~single or two or three-family~~ dwelling actually owned and
12 occupied by the owner for not less than ~~one year~~ 180 days
13 prior to the ~~first written offer~~ initiation of negotiation for the
14 acquisition of such property.

15 (b) Such payment, not to exceed ~~five~~ fifteen thousand
16 dollars (~~\$5,000~~) (\$15,000), shall be based on the following
17 factors:

18 (1) The amount, if any, which, when added to the acquisi-
19 tion payment, equals the ~~average price required for reason-~~
20 ~~able cost~~ of a comparable replacement dwelling determined,
21 in accordance with standards established by the public entity,
22 to be a decent, safe and sanitary dwelling adequate to accom-
23 modate the displaced owner, reasonably accessible to public
24 services and the condemnee's place of employment, and avail-
25 able on the market.

26 (2) The amount, if any, which will compensate the displaced
27 owner for any increased interest costs which he is required to
28 pay for financing the acquisition of a comparable replacement
29 dwelling. The amount shall be paid only if the acquired dwell-
30 ing was encumbered by a bona fide mortgage which was a
31 valid lien on such dwelling for not less than 180 days prior to
32 the initiation of negotiations for the acquisition of such dwell-
33 ing. The amount shall be equal to the excess in the aggregate
34 interest and other debt service costs of that amount of the
35 principal of the mortgage on the replacement dwelling which is
36 equal to the unpaid balance of the mortgage on the acquired
37 dwelling, over the remainder term of the mortgage on the
38 acquired dwelling, reduced to discounted present value. The
39 discount rate shall be the prevailing interest rate paid on
40 savings deposits by commercial banks in the general area in
41 which the replacement dwelling is located.

42 (3) Reasonable expenses incurred by the displaced owner
43 for evidence of title, recording fees, and other closing costs
44 incident to the purchase of the replacement dwelling, but not
45 including prepaid expenses.

46 (c) Such payment shall be made only to a displaced owner
47 who purchases and occupies a replacement dwelling that meets
48 standards established by the public entity within one year
49 subsequent to the date on which he is required to move moves
50 from the dwelling acquired by the public entity or the date
51 on which he receives from the public entity final payment of

1 all costs of the dwelling acquired by the public entity, which-
2 ever is the later date.

3 SEC. 5. Section 7264 of the Government Code is amended
4 to read:

5 7264. (a) In addition to the ~~payment~~ authorized payments
6 required by Section ~~7261~~ 7262, as a part of the cost of ac-
7 quisition, the public entity ~~may~~ shall make a payment to any
8 individual or family displaced from any dwelling not eligible
9 to receive a payment under Section 7263 which was actually
10 and lawfully occupied by such individual or family for not less
11 than 90 days prior to the ~~first written offer from initiation of~~
12 ~~negotiation~~ by the public entity for the acquisition of such
13 property.

14 (b) Such payment, not to exceed ~~one thousand five hundred~~
15 ~~dollars~~ (~~\$1,500~~) ~~four thousand dollars~~ (\$1,000), shall be the
16 additional amount which is necessary to enable such individual
17 or family to lease or rent for a period not to exceed ~~two~~ four
18 years, or to make the downpayment on the purchase of, a
19 decent, safe, and sanitary dwelling of standards adequate to
20 accommodate such individual or family in areas not generally
21 less desirable in regard to public utilities and public and com-
22 mercial facilities.

23 (c) If the payment is to be used as a downpayment for the
24 acquisition of a decent, safe, and sanitary dwelling of such
25 standards, the payment shall not exceed two thousand dollars
26 (\$2,000), unless the amount in excess thereof is equally
27 matched by the individual or family.

28 SEC. 6. Section 7264.5 is added to the Government Code, to
29 read:

30 7264.5. (a) If comparable replacement housing is not avail-
31 able and the public entity determines that such housing can-
32 not otherwise be made available, the public entity shall use
33 funds authorized for the project for which the real property,
34 or interest thereof, is being acquired to provide such housing.

35 (b) No person shall be required to move from his dwelling
36 because of its acquisition by a public entity, unless there is
37 replacement housing, as described in paragraph (3) of subdivi-
38 sion (e) of Section 7261, available to him.

39 SEC. 7. Section 7265 of the Government Code is amended
40 to read:

41 7265. (a) In addition to the ~~payment~~ authorized payments
42 required by Section ~~7261~~ 7262, as a cost of acquisition, the
43 public entity ~~may~~ shall make a payment to any affected prop-
44 erty owner meeting the requirements of this section.

45 (b) Such affected property is immediately contiguous to
46 property acquired for airport purposes and the owner shall
47 have owned the property affected by acquisition by the public
48 entity not less than ~~one year~~ 180 days prior to the ~~first writ-~~
49 ~~ten offer~~ initiation of negotiation for acquisition of the ac-
50 quired property.

51 (c) Such payment, not to exceed ~~five fifteen~~ thousand dollars
52 (~~\$5,000~~) (\$15,000), shall be the amount, if any, which equals

1 the actual decline in the fair market value of the property of
2 the affected property owner caused by the acquisition by the
3 public entity for airport purposes of other real property and a
4 change in the use of such property.

5 (d) The amount, if any, of actual decline in fair market
6 value of affected property shall be determined according to
7 rules and regulations adopted by the public entity pursuant
8 to this chapter. Such rules and regulations shall limit payment
9 under this section only to such circumstances in which the de-
10 cline in fair market value of affected property is reasonably
11 related to objective physical change in the use of acquired
12 property.

13 Sec. 8. Section 7265.4 is added to the Government Code,
14 to read:

15 7265.4. In addition to the payments required by Section
16 7262, as a cost of acquisition, the public entity, as soon as
17 practicable after the date of payment of the purchase price
18 or the date of deposit in court of funds to satisfy the award of
19 compensation in a condemnation proceeding to acquire real
20 property, whichever is the earlier, shall reimburse the owner,
21 to the extent the public entity deems fair and reasonable, for
22 expenses the owner necessarily incurred for:

23 (a) Recording fees, transfer taxes, and similar expenses in-
24 cidental to conveying such real property to the public entity.

25 (b) Penalty costs for prepayment of any preexisting re-
26 corded mortgage entered into in good faith encumbering such
27 real property.

28 (c) The pro rata portion of real property taxes paid which
29 are allocable to a period subsequent to the date of vesting title
30 in the public entity, or the effective date of possession of such
31 real property by the public entity, whichever is the earlier.

32 Sec. 9. Section 7265.5 is added to the Government Code,
33 to read:

34 7265.5. (a) The court having jurisdiction of a proceeding
35 instituted by a public entity to acquire real property by con-
36 demnation shall award the owner of any right, or title to, or
37 interest in, such real property such an amount, as determined
38 by the court, which will reimburse the owner for his reason-
39 able costs, disbursements, and expenses, including reasonable
40 attorney, appraisal, and engineering fees, actually incurred
41 because of the condemnation proceedings, if the final judgment
42 is that the public entity cannot acquire the real property by
43 condemnation or the proceeding is abandoned by the public
44 entity.

45 (b) Any award made pursuant to subdivision (a) shall be
46 paid by the public entity for whose benefit the condemnation
47 proceedings was instituted.

48 (c) In any other court proceeding in which a person is
49 awarded compensation for the taking of property by a public
50 entity, he shall be awarded such an amount, as determined by
51 the court, which will reimburse him for his reasonable costs,
52 disbursements, and expenses, including reasonable attorney, ap-

1 praisal, and engineering fees, actually incurred because of
2 such proceeding.

3 SEC. 10. Section 7265.6 is added to the Government Code,
4 to read:

5 7265.6. (a) Notwithstanding any other provision of law,
6 if a public entity acquires any interest in real property, it
7 shall acquire at least an equal interest in all buildings, struc-
8 tures, or other improvements located upon the real property
9 so acquired and which it requires to be removed from such
10 real property or which it determines will be adversely affected
11 by the use to which such real property will be put.

12 (b) (1) For the purpose of determining the just compen-
13 sation to be paid for any building, structure, or other improve-
14 ment required to be acquired by subdivision (a), such build-
15 ing, structure, or other improvement shall be deemed to be a
16 part of the real property to be acquired, notwithstanding the
17 right or obligation of a tenant, as against the owner of any
18 other interest in the real property, to remove such building,
19 structure, or improvement at the expiration of his lease, and
20 the fair market value which such building, structure, or im-
21 provement contributes to the fair market value of the real
22 property to be acquired, or the fair market value of such
23 building, structure, or improvement for removal from the real
24 property, whichever is the greater, shall be paid to the tenant
25 therefor.

26 (2) Payment under this subdivision shall not result in du-
27 plication of any payments otherwise authorized by law. No
28 such payment shall be made unless the owner of the land in-
29 volved disclaims all interest in the improvements of the ten-
30 ant. In consideration for any such payment, the tenant shall
31 assign, transfer, and release to the public entity all his right,
32 title, and interest in and to such improvements. Nothing in this
33 subdivision shall be construed to deprive the tenant of any
34 rights to reject payment under this subdivision and to obtain
35 payment for such property interests in accordance with other
36 provisions of the law.

37 SEC. 11. Section 7267 of the Government Code is amended
38 and renumbered to read:

39 7267

40 7267.9. Payments under the provisions of this chapter shall
41 be made to eligible persons in accordance with such rules and
42 regulations as shall be adopted by the State Board of Control
43 for property acquisitions by a state agency, or the governing
44 body of any other public entity, for property acquisitions by
45 such entity. Payments made in relation to property acquisition
46 for roads and streets by public entities other than the state
47 shall be made in accordance with the provisions of Article 3.5
48 (commencing with Section 156) of Chapter 1 of Division 1 of
49 the Streets and Highways Code and such rules and regula-
50 tions as shall be adopted by the State Departments of Public
51 Works.

1 SEC. 12. Section 7267 is added to the Government Code, to
2 read:

3 7267. In order to encourage and expedite the acquisition
4 of real property by agreements with owners, to avoid litigation
5 and relieve congestion in the courts, to assure consistent
6 treatment for owners in the public programs, and to promote
7 public confidence in public land acquisition practices, public
8 entities shall, to the greatest extent practicable, be guided by
9 the provisions of Sections 7267.1 to 7267.8, inclusive.

10 SEC. 13. Section 7267.1 is added to the Government Code,
11 to read:

12 7267.1. (a) The public entity shall make every reasonable
13 effort to acquire expeditiously real property by negotiation.

14 (b) Real property shall be appraised before the initiation of
15 negotiations, and the owner, or his designated representative,
16 shall be given an opportunity to accompany the appraiser
17 during his inspection of the property.

18 SEC. 14. Section 7267.2 is added to the Government Code,
19 to read:

20 7267.2. Before the initiation of negotiations for real prop-
21 erty, the public entity shall establish an amount which it
22 believes to be just compensation therefor, and shall make a
23 prompt offer to acquire the property for the full amount so
24 established. In no event shall such amount be less than the
25 public entity's approved appraisal of the fair market value
26 of such property. Any decrease or increase in the fair market
27 value of real property prior to the date of valuation caused
28 by the public improvement for which such property is acquired,
29 or by the likelihood that the property would be acquired for
30 such improvement, other than that due to physical deteriora-
31 tion within the reasonable control of the owner, will be dis-
32 regarded in determining the compensation for the property.
33 The public entity shall provide the owner of real property to
34 be acquired with a written statement of, and summary of the
35 basis for, the amount it established as just compensation.
36 Where appropriate, the just compensation for the real prop-
37 erty acquired and for damages to remaining real property
38 shall be separately stated.

39 SEC. 15. Section 7267.3 is added to the Government Code,
40 to read:

41 7267.3. No owner shall be required to surrender possession
42 of real property before the public entity pays the agreed
43 purchase price, or deposits with the court, for the benefit of
44 the owner, an amount not less than the entity's approved ap-
45 praisal of the fair market value of such property or the amount
46 of the award of compensation in the condemnation proceeding
47 for such property.

48 SEC. 16. Section 7267.4 is added to the Government Code,
49 to read:

50 7267.4. The construction or development of a public im-
51 provement shall be so scheduled that, to the greatest extent

1 practicable, no person lawfully occupying real property shall
2 be required to move from a dwelling, assuming a replacement
3 dwelling will be available, or to move his business or farm
4 operation, without at least 90 days' written notice from the
5 public entity of the date by which such move is required.

6 SEC. 17. Section 7267.5 is added to the Government Code,
7 to read:

8 7267.5. If the public entity permits an owner or tenant to
9 occupy the real property acquired on a rental basis for a short
10 term, or for a period subject to termination by the public
11 entity on short notice, the amount of rent required shall not
12 exceed the fair rental value of the property to a short-term
13 occupier.

14 SEC. 18. Section 7267.6 is added to the Government Code,
15 to read:

16 7267.6. In no event shall the public entity either advance
17 the time of condemnation, or defer negotiations or con-
18 demnation and the deposit of funds in court for the use of the
19 owner, or take any other action coercive in nature, in order
20 to compel an agreement on the price to be paid for the prop-
21 erty.

22 SEC. 19. Section 7267.7 is added to the Government Code,
23 to read:

24 7267.7. If any interest in real property is to be acquired
25 by exercise of the power of eminent domain, the public entity
26 shall institute formal condemnation proceedings. No public
27 entity shall intentionally make it necessary for an owner to
28 institute legal proceedings to prove the fact of the taking of
29 his real property.

30 SEC. 20. Section 7267.8 is added to the Government Code,
31 to read:

32 7267.8. If the acquisition of only part of a property would
33 leave its owner with an uneconomic remnant, the public entity
34 concerned shall offer to acquire the entire property.

35 SEC. 21. Section 7272 of the Government Code is repealed.

36 ~~7272. The provisions of this chapter shall apply only to
37 the provision by a public entity of relocation assistance to any
38 individual, family, business, or farm operation located in a
39 city or county.~~

40 SEC. 22. Section 33414 of the Health and Safety Code is
41 repealed.

42 ~~33414. An agency may operate a rehousing bureau to as-
43 sist site occupants in obtaining adequate temporary or per-
44 manent housing. It may incur any necessary expenses for this
45 purpose.~~

46 SEC. 23. Section 33415 of the Health and Safety Code is
47 amended to read:

48 33415. (a) An agency may make relocation payments to
49 or with respect to persons (including families, business con-
50 cerns, and others) displaced by a redevelopment project, for
51 moving expenses and losses of property for which reimburse-

1 ment or compensation is otherwise made, including the making
2 of such payments financed by the federal government.

3 ~~(b) An agency in a county having a population of more~~
4 ~~than four million persons may make any shall provide reloca-~~
5 ~~tion assistance and shall make all of the payments authorized~~
6 ~~required by Chapter 16 (commencing with Section 7260) of~~
7 ~~Division 7 of Title 1 of the Government Code, including the~~
8 ~~making of such payments financed by the federal government.~~

9 Sec. 24. Section 600 of the Public Utilities Code is
10 amended to read:

11 600. A public utility acquiring real property in a county
12 having a population of more than four million persons by
13 eminent domain is authorized to give *provide* relocation ad-
14 visory assistance and to make any of the payments ~~authorized~~
15 ~~required of public entities~~ by Chapter 16 (commencing with
16 Section 7260) of Division 7 of Title 1 of the Government
17 Code. ~~For the purposes of this section, a public utility shall~~
18 ~~be considered to be a "public entity" other than a state agency,~~
19 ~~as defined by Section 7260 of the Government Code.~~

20 Sec. 25. Article 3.5 (commencing with Section 156) of
21 Chapter 1 of Division 1 of the Streets and Highways Code is
22 repealed.