

#36.60

2/9/71

Memorandum 71-7

Subject: Study 36.60 - Condemnation (Relocation Assistance)

Federal legislation has been enacted which makes payment of moving expenses mandatory in federal and federally assisted programs. The attached recommendation is designed to implement the federal legislation. (We are having the federal statute reproduced but it is not now available for distribution.)

Since compliance with federal standards is required for all federally assisted programs, the recommended legislation adopts the language used in the federal statute and includes extracts from pertinent portions of the House Committee Report on the federal statute in Comments to various sections.

Two copies of the recommendation are enclosed. Please mark your suggested revisions on one copy. The staff believes that this recommendation should be submitted to the current session of the Legislature.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

#36.60

Revised February 8, 1971

STATE OF CALIFORNIA
CALIFORNIA LAW
REVISION COMMISSION

TENTATIVE RECOMMENDATION

relating to

CONDEMNATION LAW AND PROCEDURE

Relocation Assistance

CALIFORNIA LAW REVISION COMMISSION
School of Law
Stanford University
Stanford, California 94305

Important Note: This tentative recommendation is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be considered when the Commission determines what recommendation, if any, it will make to the California Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you object to the tentative recommendation or that you believe that it needs to be revised.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

CONTENTS

	Page
RECOMMENDATION -----	1
PROPOSED LEGISLATION -----	12
<u>Government Code</u>	
Chapter 16. Relocation Assistance -----	13
Article 1. Definitions -----	15
§ 7260. Definitions governing construction of chapter -----	15
§ 7261. "Acquirer" -----	16
§ 7262. "Affected property" -----	17
§ 7263. "Average annual net earnings" -----	18
§ 7264. "Business" -----	19
§ 7265. "Displaced person" -----	20
§ 7266. "Educational institution" -----	21
§ 7267. "Farm operation" -----	22
§ 7268. "Governing body" -----	23
§ 7269. "Local public entity" -----	24
§ 7270. "Mortgage" -----	25
§ 7271. "Person" -----	26
§ 7272. "Public entity" -----	27
§ 7273. "Public utility" -----	28
§ 7274. "State" -----	29
Article 2. General Provisions -----	30
§ 7280. Payments required pursuant to rules and regulations	30
§ 7281. Rules and regulations -----	31
§ 7282. Review of determinations as to eligibility or amount of payment -----	33
§ 7283. Status of payments; income tax and public assistance -----	34

	Page
§ 7284. Conformity to federal requirements for federal aid projects _ _ _ _ _	35
§ 7285. Effect on property acquisition _ _ _ _ _	36
§ 7286. Department of Public Works excepted _ _ _ _ _	37
Article 3. Moving and Related Expenses _ _ _ _ _	38
§ 7290. Payment of moving expenses _ _ _ _ _	38
§ 7291. In lieu payments for persons displaced from dwelling _ _ _ _ _	40
§ 7292. In lieu payments for persons displaced from business or farm _ _ _ _ _	41
§ 7293. Move from dwelling required by acquisition of property used for business or farm operation _ _ _	42
Article 4. Replacement Housing _ _ _ _ _	43
§ 7300. Replacement housing for homeowner _ _ _ _ _	43
§ 7301. Replacement housing for tenants and certain others _	48
§ 7302. Housing replacement by acquirer as last resort _ _	49
Article 5. Property Acquired for Airport Purposes _ _ _ _ _	50
§ 7310. Additional payment to certain owners of "affected property" _ _ _ _ _	50
Article 6. Persons Displaced by Code Enforcement, Rehabilitation, and Demolition Programs _ _ _ _ _	51
§ 7320. Persons displaced by code enforcement, rehabilitation, and similar programs _ _ _ _ _	51
Article 7. Relocation Advisory Assistance _ _ _ _ _	52
§ 7330. Relocation advisory services _ _ _ _ _	52
§ 7331. Contracts with public or private agencies _ _ _ _ _	53

Health and Safety Code

§ 33135 (Conforming amendment) _ _ _ _ _	54
§ 33415 (Conforming amendment) _ _ _ _ _	55

	Page
§ 34014 (Conforming amendment) -----	56
§ 34330 (Conforming amendment) -----	57
 <u>Public Utilities Code</u>	
§ 600 (Repealed) -----	59
§§ 21690.5-21690.17 (Repealed) -----	60
§§ 29110-29117 (Repealed) -----	64
 Urgency clause -----	 66

TENTATIVE
 RECOMMENDATION OF THE CALIFORNIA
 LAW REVISION COMMISSION
relating to
 CONDEMNATION LAW AND PROCEDURE
Relocation Assistance

Traditional judicial interpretations of the constitutional provision¹ that private property shall not be taken for public use without "just compensation" having first been made have required only that the person whose land is taken for public use be paid its market value.² Accordingly, recent efforts to obtain additional compensation for the various and many expenses of moving to another location following acquisition for a public use have been addressed to the legislatures. In response to these pressures, legislation has been enacted at both the federal³ and state⁴ levels in an attempt to remedy the situation.

-
1. Cal. Const., Art. I, § 14.
 2. See, e.g., *Los Gatos v. Sund*, 234 Cal. App.2d 24, 27, 44 Cal. Rptr. 181, 183 (1965), quoting *Monongahela Nav. Co. v. United States*, 148 U.S. 312, (1892); *Pacific Gas & Elec. Co. v. Chubb*, 24 Cal. App. 265, 267, 141 P. 36 (1914) (the constitutional mandate requires only compensation "for the property, and not to the owner"). This constitutional interpretation probably is in accord with that of a majority of states today. See 4 P. Nichols, *The Law of Eminent Domain* § 14.2471(2) (4th ed. 1962).
 3. See, e.g., *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970* (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).
 4. Until 1970, separate statutes covering relocation assistance and reimbursement for moving expense applied to (1) public entities except the State Department of Public Works (see Cal. Stats. 1969, Ch. 1489, § 1 (former Govt. Code § 7260)) and public utilities (see Pub. Util. Code § 600 (Cal. Stats. 1969, Ch. 1489, § 3)) acquiring property in Los Angeles County; (2) the State Department of Water Resources, the State Department of Parks and Recreation, the Trustees of the California State Colleges, and the Regents of the University of California (see Cal. Stats. 1965, Ch. 1650, amended by Cal. Stats. 1968, Ch. 1436 (formerly Govt. Code §§ 15950-15956)); (3) redevelopment agencies (see Health & Saf. Code §§ 33135, 33415, 34014);

In California, a major step towards a uniform, comprehensive scheme for relocation assistance was taken in 1970 when Chapter 16 of Division 7 of Title 1 of the Government Code was amended to be made applicable to all public entities acquiring property in California except the State Department of Public Works.⁵ Chapter 16 is patterned after the Federal-Aid Highway Act of 1968.⁶ It provides that, as a part of the cost of acquisition of real property for a public use or construction of a public project, the appropriate public entity "may compensate a displaced person for his actual and reasonable expense in moving himself, family, business or farm operation, including moving personal property."⁷ In place of actual expenses, the displaced person may generally

(4) housing authorities (see Health & Saf. Code § 34330); (5) any public entity acquiring property for airport expansion and development (see Pub. Util. Code §§ 21690.5-21690.17 (Cal. Stats. 1969, Ch. 1228, § 1)); (6) the San Francisco Bay Area Rapid Transit District (see Pub. Util. Code §§ 29110-29117); and (7) the State Department of Public Works when acquiring property for state or federal-aid highways (see Sts. & Hwys. Code §§ 156-159.6).

No two of these statutes were or are exactly alike. The ones enacted earlier were generally less detailed and sometimes set arbitrary limits on the payment of even the actual out-of-pocket cost of moving personal property. In 1970, Number 1 listed above was amended; Number 2 was repealed; Numbers 3 through 7 were not changed and remain in effect.

5. See Cal. Stats. 1970, Ch. 983, § 1, amending Govt. Code § 7260(a). This section and chapter were formerly restricted to public entities acquiring property in Los Angeles County.
6. 23 U.S.C.A. §§ 501-511.
7. See Government Code Section 7262(a):

(a) As a part of the cost of acquisition of real property for a public use, a public entity may compensate a displaced person for his actual and reasonable expense in moving himself, family, business, or farm operation, including moving personal property.

elect to receive limited in lieu payments.⁸ In addition to moving expenses, the entity is authorized to make limited supplementary payments to certain owners and tenants of residential property to enable them to obtain dwellings

8. See Government Code Section 7262(b), (c):

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

(c) Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this subdivision in lieu of the payment authorized by subdivision (a) of this section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, or five thousand dollars (\$5,000), whichever is less. In the case of a business, no payment shall be made under this subdivision unless the public entity is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one other establishment, not being acquired, which is engaged in the same or similar business. For purposes of this subdivision, the term "average annual net earnings" means one-half of any net earnings of the business, or farm operation, before federal, state, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property being acquired, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such two-year period. To be eligible for the payment authorized by this subdivision, the business or farm operation shall make available its state income tax records and its financial statements and accounting records, for audit for confidential use to determine the payment authorized by this subdivision.

comparable to those they were compelled to leave,⁹ as well as limited payments to owners of property which is contiguous to property acquired

9. See Government Code Sections 7263, 7264:

7263. (a) In addition to the payments authorized by Section 7261, the public entity, as a part of the cost of construction, may make a payment to the owner of real property acquired for public use which is improved with a single- or two- or three-family dwelling actually owned and occupied by the owner for not less than one year prior to the first written offer for the acquisition of such property.

(b) Such payment, not to exceed five thousand dollars (\$5,000), shall be the amount, if any, which, when added to the acquisition payment, equals the average price required for a comparable dwelling determined, in accordance with standards established by the public entity, to be a decent, safe and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and the condemnee's place of employment, and available on the market.

(c) Such payment shall be made only to a displaced owner who purchases and occupies a dwelling that meets standards established by the public entity within one year subsequent to the date on which he is required to move from the dwelling acquired by the public entity.

7264. (a) In addition to the payment authorized by Section 7261, as a part of the cost of acquisition, the public entity may make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under Section 7263 which was actually and lawfully occupied by such individual or family for not less than 90 days prior to the first written offer from the public entity for the acquisition of such property.

(b) Such payment, not to exceed one thousand five hundred dollars (\$1,500), shall be the additional amount which is necessary to enable such individual or family to lease or rent for a period not to exceed two years, or to make the downpayment on the purchase of, a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.

for airport purposes and which declines in market value due to the use of that property for that purpose.¹⁰ Finally, authorization for advisory assistance is provided,¹¹ the appropriate rule-making body is designated,¹² and the scope of review receives mention.¹³

Although significant progress has been made in providing relocation assistance for persons involuntarily displaced by acquisitions for public use, at

10. See Government Code Section 7265:

7265. (a) In addition to the payment authorized by Section 7261, as a cost of acquisition, the public entity may make a payment to any affected property owner meeting the requirements of this section.

(b) Such affected property is immediately contiguous to property acquired for airport purposes and the owner shall have owned the property affected by acquisition by the public entity not less than one year prior to the first written offer for acquisition of the acquired property.

(c) Such payment, not to exceed five thousand dollars (\$5,000), shall be the amount, if any, which equals the actual decline in the fair market value of the property of the affected property owner caused by the acquisition by the public entity for airport purposes of other real property and a change in the use of such property.

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

Section 7265 obviously does not provide relocation benefits but, in very limited circumstances, provides compensation for intangible detriment caused by the proximity of a public improvement. Because of the special nature of this section, the Commission has deferred consideration of both the principle and scope of this section until the Commission's study of this aspect of condemnation is completed.

11. See Govt. Code § 7261.

12. See Govt. Code § 7267.

13. See Govt. Code § 7266.

least two steps remain to be completed or taken. First, the principle of reimbursement should be uniformly applied to all acquirers of property for public use. Second, as a matter of fairness, reimbursement should be mandatory in certain instances; payment of at least the actual and reasonable expense of moving should be not merely authorized but required of every potential condemnor.

With respect to the first point, the principle of uniformity seems to have been established in 1970 by the amendment of Chapter 16 noted above. However, there remain in effect a number of statutes enacted earlier which provide overlapping and potentially conflicting provisions relating to relocation assistance.¹⁴ This situation should be remedied. A single, uniform, comprehensive statute should apply whenever property is acquired for a public use and the person acquiring the property exercises or could have exercised the right of eminent domain to make such acquisition. Such a statute would eliminate any confusion that exists today, simplify the law, and--most important--provide fair and equitable treatment for all citizens of the state.

As to the second point, every person displaced by the acquisition of property for public use should be entitled as a matter of right to reimbursement for at least the actual and reasonable expenses of moving incurred as a result of the acquisition. Bearing in mind that these are actual, out-of-pocket costs, incurred because property is acquired for public use, the issue simply becomes who should bear this burden: the displaced individual, family, or business forced to relocate or the segment of the public benefiting from the acquisition. Framed in these terms, the answer seems clear. Proper accounting and enlightened decision-making require that all the costs attributable to a project be considered in determining whether to undertake it. It

14. See note 4, supra.

might be suggested that moving expenses are too conjectural or too expensive to be compensable. However, we are dealing here with actual, fixed out-of-pocket expenses and it seems clear that these can be ascertained with reasonable certainty.¹⁵ Indeed, theoretically, there is no issue of expense, but simply one of allocation. The net cost to society is the same whether these expenses are borne by the individual or by the benefited public. Also, although existing law is generally discretionary in form, the administrative practice appears to have been to treat payment as mandatory, and the experience shows that the burden of payment is not excessive. Finally, as to federally-assisted state and local projects, recent federal legislation requires that relocation assistance in the form provided by the legislation recommended by the Commission be afforded to persons displaced by the project or federal assistance will not be granted.¹⁶ Legislation authorizing state and local entities to comply with the federal requirements is imperative, therefore, if federal assistance is to be obtained.

Accordingly, the Commission recommends enactment of legislation applicable to all potential condemners acquiring property in California for public use.¹⁷

-
15. See, e.g., *Los Gatos v. Sund*, 234 Cal. App.2d 24, 28, 44 Cal. Rptr. 181, 184 (1965). Moreover, the actual expenses of moving will often be subject to the limits afforded by the rate schedules fixed by the Public Utilities Commission. One very important exception would exist since displaced persons would also often be entitled to elect to receive in lieu payments fixed without regard to actual expenses. However, these in lieu payments are so limited and subject to such administrative control that it seems doubtful that they will ever greatly exceed actual expenses, and the savings in administration should more than offset any discrepancies.
 16. Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, Pub. L. 91-646, § 210, 84 Stat. 1899 (Jan. 2, 1971).
 17. The recommended legislation does not apply to acquisitions by the State Department of Public Works for state highway or federal-aid highway projects. It is assumed that relocation assistance in connection with these projects will be covered by other legislation enacted at the 1971 session.

In conformity with the federal law, every condemnor should be required to pay every displaced person his actual reasonable expenses in moving himself, his family, business, or farm operation; or, in lieu thereof, he should be permitted to elect to receive certain fixed payments. ¹⁸ In addition, persons

18. Section 202 of the federal statute requires each affected condemnor to make a payment to any displaced person . . . for--

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the . . . [condemnor]; and

(3) actual reasonable expenses in searching for a replacement business or farm.

(b) Any displaced person eligible for payments under subsection (a) of this section 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 (a) of this section may receive a moving expense allowance, determined according to a schedule established by the . . . [condemnor], not to exceed \$300; and a dislocation allowance of \$200.

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than \$2,500 nor more than \$10,000. In the case of a business no payment shall be made under this subsection unless the . . . [condemnor] is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the . . . [condemnor], which is engaged in the same or similar business. For purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the . . . [condemnor] determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

Compare Govt. Code § 7262, supra notes 7 and 8.

acquiring property for public use should be authorized to make an additional payment to enable a displaced homeowner to obtain a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced homeowner, reasonably accessible to public services and places of employment, and available on the private market.¹⁹ Authorization for

19. Section 203 of the federal statute provides in part:

203. (a)(1) In addition to payments otherwise authorized . . . [the condemnor] shall make an additional payment not in excess of \$15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such 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 . . . [condemnor], equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the . . . [condemnor] making the additional payment.

(B) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the . . . [condemnor] was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including pre-paid expenses.

(2) The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which he receives from the . . . [condemnor] final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

* * * * *

Compare Govt. Code § 7263, supra note 9.

payments to displaced tenants to accomplish the same objective--replacement housing--also should be included in the comprehensive relocation assistance statute.²⁰ The statutory standards for the payments to displaced homeowners and tenants to obtain replacement housing should be in conformity with the standards provided by federal law.²¹ Although the authorization to make payments to displaced homeowners and tenants for replacement housing would be discretionary--rather than mandatory--under the legislation recommended by the Commission, it should be noted that such payments will be mandatory in all federally assisted programs or projects.²²

Since all federally assisted state and local programs and projects must satisfy the federal standards and requirements for relocation assistance, the recommended legislation has been drafted to conform to the language used in the federal statute. The pertinent federal provision, if any, is noted in the Comment to each section of the recommended legislation. In addition, where helpful, the

20. Section 204 of the federal statute provides in part:

204. In addition to amounts otherwise authorized . . . [the condemnor] shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 203 which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either--

(1) the amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities, and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed \$1,000, or

(2) the amount necessary to enable such person to make a downpayment (including incidental expenses described in section 203(a) (1)(C)) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed \$4,000, except that if such amount exceeds \$2,000, such person must equally match any such amount in excess of \$2,000, in making the downpayment.

Compare Govt. Code § 7264, supra note 9.

21. See notes 19 and 20, supra.

22. See Section 210 of the federal statute.

Comments to sections of the recommended legislation include extracts of explanatory material from the Report of the Committee on Public Works of the House of Representatives on the federal statute.²³

23. House Comm. on Public Works, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, H. R. Rep. No. 1656, 91st Cong., 2d Sess. (1970).

The Commission's recommendation would be effectuated by the enactment of the following measure:

An act to repeal Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of, and to add Chapter 16 (commencing with Section 7260) to Division 7 of Title 1 of, the Government Code, to amend Sections 33135, 33415, 34014, and 34330 of the Health and Safety Code, to repeal Article 6 (commencing with Section 600) of Chapter 3 of Part 1 of Division 1 of, Article 4.5 (commencing with Section 21690.5) of Chapter 4 of Part 1 of Division 9 of, and Article 9 (commencing with Section 29110) of Chapter 6 of Part 2 of Division 10 of, the Public Utilities Code, relating to property acquisitions for public use.

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

Section 1. Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code is repealed.

Sec. 2. Chapter 16 (commencing with Section 7260) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 16. RELOCATION ASSISTANCE

Comment. Chapter 16 is a comprehensive statute designed to cover all cases where property is acquired for public use. Only acquisitions by the State Department of Public Works for state highway or federal-aid highway projects are excluded; these are covered by a separate statute.

All federally assisted state and local programs and projects must satisfy federal standards and requirements for relocation assistance. See Section 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971). Accordingly, this chapter has been drafted to conform to the language used in the federal statute, and this chapter is designed to implement the same objectives as the federal statute. See Recommendation of California Law Revision Commission Relating to Condemnation Law and Procedure: Relocation Assistance (February 1971). These objectives are stated in the House Committee Report on the federal statute--House Comm. on Public Works, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, H. R. Rep. No. 1656, 91st Cong., 2d Sess. 1-3 (1970)--as follows:

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is the culmination of lengthy and extensive efforts to develop legislation establishing a uniform policy for the fair and equitable treatment of persons who are displaced, or have their real property taken for Federal and federally assisted programs. The need for such legislation arises from the increasing impact of Federal and federally assisted programs as such programs have evolved to meet the needs of a growing and increasingly urban population. In a less complex time, Federal and federally assisted public works projects seldom involved major displacements of people. There was relatively little taking of residential or commercial property for farm-to-market routes or for reservoirs or public buildings. Indeed, local support for such projects often resulted in little, if any, cost for land acquisition or rights-of-way. However, with the growth and development of an economy which is increasingly urban and metropolitan, the demand for public facilities and services has increasingly centered on such urban areas, and the acquisition of land for such projects has become the most difficult facet of many undertakings by public agencies. Also, a major public project—be it a highway, urban renewal project, or hospital—inevitably involves the acquisition and clearance of sites which now provide residential, commercial, or other services. As the thrust of Federal and federally assisted programs have shifted from rural to urban situations, it became increasingly apparent that the application of traditional concepts of valuation and eminent domain resulted in inequitable treatment for large numbers of people displaced by public action. When applied to densely populated urban areas, with already limited housing, the result can be catastrophic for those whose homes or businesses must give way to public needs. The result far too often has been that a few citizens have been called upon to bear the burden of meeting public needs.

* * * * *

The bill as recommended is necessary to eliminate the great inconsistencies that exist among Federal and federally assisted programs with respect to the amount and scope of payments, other assistance provided, and assurance of housing offered. It recognizes that relocation is a serious and growing problem in the United States and that the pace of displacement will accelerate in the years immediately ahead. It recognizes that advisory assistance is of special importance in the relocation process especially for the poor, the nonwhite, the elderly, and people engaged in small business. It recognizes the need for more equitable land acquisition policies in connection with the acquisition of real property for these programs. In short, this legislation recognizes that the Federal Government has a primary responsibility to provide uniform treatment for those forced to relocate by Federal and federally aided public improvement programs and to ease the impact of such forced moves.

This legislation . . . provides a humanitarian program of relocation payments, advisory assistance, assurance that comparable, decent, safe, and sanitary replacement housing will be available for displaced persons prior to displacement, economic adjustments, and other assistance to owners and tenants displaced from their homes, farms, and places of business. It establishes a uniform policy on real property acquisition practice for all Federal and federally assisted programs. And, perhaps most important of all, it gets to the heart of the dislocation problem by providing the means for positive action to increase the available housing supply for displaced low and moderate income families and individuals.

Article 1. Definitions

§ 7260. Definitions governing construction of chapter

7260. The definitions contained in this article govern the construction of this chapter.

§ 7261. "Acquirer"

7261. "Acquirer" means any public entity, public utility, or educational institution which acquires real property or any interest therein for public use and exercises or could have exercised the right of eminent domain to acquire such property for such use.

Comment. Sections 7261, 7266 ("educational institution"), 7272 ("public entity"), and 7273 ("public utility") make this chapter applicable whenever property is acquired for a public use and the right of eminent domain is or could have been exercised to make such acquisition. However, Section 7286 excludes the State Department of Public Works from the coverage of this chapter when that department is acquiring property for a state highway or federal-aid highway project. For the law covering these excluded acquisitions, see Sts. & Hwys. Code §§ 156-159.6.

Formerly, various statutes dealt with relocation assistance by specific entities in limited situations. See, e.g., Health & Saf. Code §§ 33135, 33415, 34014 (redevelopment agencies); Health & Saf. Code § 34330 (housing authorities); Cal. Stats. 1969, Ch. 1228, § 1 (formerly Pub. Util. Code §§ 21690.5-21690.17)(any public entity acquiring property for airport expansion and development); Cal. Stats. 1966, 1st Ex. Sess., Ch. 165 (formerly Pub. Util. Code §§ 29110-29117)(San Francisco Bay Area Rapid Transit District). However, no completely comprehensive statute relating to relocation assistance existed.

§ 7262. "Affected property"

7262. "Affected property" means any real property which actually declines in fair market value because of acquisition by a public entity for public use of other real property and a change in the use of the real property acquired by the public entity.

Comment. Section 7262 is identical to subdivision (g) of former Section 7260.

§ 7263. "Average annual net earnings"

7263. "Average annual net earnings" means one-half of any net earnings of the business or farm operation, before federal, state, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired by the acquirer, or during such other period as the governing body of the acquirer determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

Comment. Section 7263 is substantively identical to the last sentence of subsection (c) of Section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

The "more equitable" period is designed to furnish a fair basis for comparison--often the announcement of a public project will depress values, people will move away, business will be reduced, and the like. Where this occurs, the two-year period immediately prior to acquisition may not be truly representative and an earlier period may be selected. Also, this discretionary authority to select a more representative period will be utilized in the case of a displaced person whose business was not in operation for the full two-year period. See House Comm. on Public Works, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, H.R. Rep. No. 1656, 91st Cong., 2d Sess. 8 (1970).

§ 7264. "Business"

7264. "Business" means any lawful activity, except 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 purpose of Section 7290, 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, whether or not such display is located on the premises on which any of the above activities are conducted.

Comment. Section 7264 is substantively identical to Section 101(7) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

§ 7265. "Displaced person"

7265. "Displaced person" means any person who moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, by an acquirer.

Comment. Section 7265 is the same in substance as Section 101(6) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

§ 7266. "Educational institution"

7266. "Educational institution" means any institution within the State of California which is exempt from taxation under the provisions of Section 1a of Article XIII of the Constitution of the State of California.

Comment. Section 7266 defines the term "educational institution" used in Sections 7261 and 7268. The definition conforms with the use of the term in Section 1238(2) of the Code of Civil Procedure.

§ 7267. "Farm operation"

7267. "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 in sufficient quantity to be capable of contributing materially to the operator's support.

Comment. Section 7267 defines "farm operation" the same as that term is defined in Section 101(8) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

§ 7268. "Governing body"

7268. "Governing body" means:

- (a) In the case of the state, the State Board of Control.
- (b) In the case of a local public entity, the governing body of the local public entity.
- (c) In the case of a public utility, the Public Utilities Commission.
- (d) In the case of an educational institution, the governing body of the institution.

Comment. The definition provided by Section 7268 designates the body that makes final determinations of eligibility and amounts of payments (Section 7282) and adopts rules and regulations (Sections 7280, 7281).

§ 7269. "Local public entity"

7269. "Local public entity" means any public entity other than the state.

§ 7270. "Mortgage"

7270. "Mortgage" means such classes of liens as may be 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.

Comment. Section 7270 is based on Section 101(9) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

§ 7271. "Person"

7271. "Person" means any individual, partnership, corporation, or association.

Comment. Section 7271 defines "person" the same as that term is defined in Section 101(5) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

§ 7272. "Public entity"

7272. "Public entity" includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state.

Comment. Section 7272 eliminates the exception of the Department of Public Works but is otherwise substantively identical to subdivision (a) of former Section 7260. The exception for the Department of Public Works is continued in Section 7286.

§ 7273. "Public utility"

7273. "Public utility" includes any person providing utility services that is authorized to exercise the right of eminent domain.

Comment. Section 7273 defines "public utility" to include not only those regulated by the Public Utilities Commission but also any other utilities that may have the right of eminent domain.

§ 7274. "State"

7274. "State" means the state and any office, officer, department, division, bureau, board, commission, or agency of the state against which claims are paid by warrants drawn by the Controller.

Comment. Section 7274 adopts the identical language used to define "state" in Government Code Section 900.6.

Article 2. General Provisions

§ 7280. Payments required pursuant to rules and regulations

7280. Payments under the provisions of this chapter shall be made to eligible persons in accordance with such rules and regulations as shall be adopted by the governing body of the acquirer. Payments made in relation to property acquisition for roads and streets by local public entities shall be made in accordance with the provisions of Article 3.5 (commencing with Section 156) of Chapter 1 of Division 1 of the Streets and Highways Code and such rules and regulations as shall be adopted by the State Department of Public Works.

Comment. Section 7280 is substantively identical to former Section 7267. See Section 7268 (defining "governing body").

§ 7281. Rules and regulations

7281. (a) The State Board of Control is authorized to adopt rules and regulations to implement payments under this chapter by the state. The governing bodies of other acquirers are authorized to adopt rules and regulations to implement payments under this chapter by such acquirers.

(b) The rules and regulations adopted pursuant to this section may include any rules and regulations necessary or desirable under federal laws and the rules and regulations promulgated thereunder.

(c) The rules and regulations adopted pursuant to this section shall include provisions relating to all of the following:

(1) A moving expense allowance, as provided in Section 7291, for a displaced person who moves from a dwelling, determined according to a schedule, not to exceed three hundred dollars (\$300).

(2) The standards for decent, safe, and sanitary dwellings.

(3) The procedure for an aggrieved person to have his determination of eligibility or amount of payment reviewed by the governing body of the acquirer.

(4) The eligibility of displaced persons for relocation assistance payments, the procedure for such persons to claim such payments, and the amounts thereof.

(5) A schedule for interest differential payments.

(d) Where an acquirer has not adopted rules and regulations to govern its practices and procedures under this chapter, the rules and regulations adopted by the county in which the property being acquired is located shall apply to the extent they can be applied. If such

§ 7281

county has not adopted applicable rules and regulations, the rules and regulations adopted by the State Board of Control shall apply to the extent they can be applied.

Comment. Section 7281 designates the rule-making body for each acquirer. ("Governing body" is defined in Section 7268.) Section 7281 permits flexibility in rule making by each entity to fit the needs of its situation. It is anticipated, however, that most entities will pattern their rules and procedures after those adopted by the Board of Control. The section also makes clear which rules are applicable in the absence of adoption of rules by a particular entity.

§ 7282. Review of determinations as to eligibility or amount of payment

7282. Any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment, may have his application reviewed by the governing body of the acquirer, and the decision of the governing body is final.

Comment. Section 7282 is substantially identical to former Section 7266. See also subsection (b)(3) of Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

§ 7283. Status of payments; income tax and public assistance

7283. No payment received by any person under this chapter shall be considered as income for the purposes of the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, nor shall such payments be considered as income or resources to any recipient of public assistance and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code.

Comment. Section 7283 is identical to former Section 7269. For a comparable provision, see Section 216 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

§ 7284. Conformity to federal requirements for federal aid projects

7284. If federal funds will be used to finance a particular project in whole or in part and the appropriate federal agency determines that giving effect to any provision of this chapter would result in limiting or denying federal funds otherwise available for the project, such provision shall at the election of the acquirer become inoperative to the extent that it is not in conformity with federal requirements, and, in such case, the acquirer is authorized to make payments to persons who are or will be injuriously affected by the project in accordance with the federal requirements.

Comment. Section 7284 is added to prevent conflict with federal requirements where acquisitions are made for a federally assisted project. In such circumstances, the acquirer may make payments to persons injuriously affected by the project in conformance with federal requirements if failure to do so would result in the loss of federal funds otherwise available to finance the project. For a somewhat similar provisions, see Welfare and Institutions Code Section 11003.

§ 7285. Effect on property acquisition

7285. Nothing in this chapter:

(a) Affects the validity of any property acquisition by purchase or condemnation.

(b) Creates in any condemnation proceeding brought under the power of eminent domain any element of damage not in existence on the date of enactment of this chapter.

Comment. Section 7285 is substantially the same as Section 102 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971). Subdivision (b) continues the substance of former Section 7270.

§ 7286. Department of Public Works excepted

7286. This chapter does not apply to acquisitions by the Department of Public Works for a state highway or federal-aid highway project.

Comment. The acquisitions excepted by Section 7286 are covered by a separate statute. See Article 3.5 (commencing with Section 156) of Chapter 1 of Division 1 of the Streets and Highways Code.

Article 3. Moving and Related Expenses

§ 7290. Payment of moving expenses

7290. As a part of the cost of the program or project for which the property is acquired, the acquirer shall compensate a displaced person for all of the following:

(a) Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property.

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property and, in the case of heavy machinery or equipment, not to exceed the in-place value of such property.

(c) Actual reasonable expenses in searching for a replacement business or farm.

Comment. Section 7290, which requires payment of actual reasonable relocation expenses, is substantially identical to subsection (a) of Section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971). However, the phrase "and, in the case of heavy machinery or equipment, not to exceed the in-place value of such property" does not appear in the federal act; and the phrase "as determined by the head of the agency," which appears in the federal act, is omitted from Section 7290 as unnecessary since Section 7282 makes the decision of the governing body of the acquirer final on determinations as to eligibility for or amount of payment.

The following explanation of this article is taken from House Comm. on Public Works, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, H.R. Rep. No. 1656, 91st Cong., 2d Sess. 6-7 (1970):

[Article]

This ~~section~~ describes the moving and related expenses payments that shall be made to persons displaced by ~~the~~ programs and projects. . . . Except in the case of certain businesses, any displaced person may elect to accept a fixed payment, according to a schedule or formula, or to prove actual reasonable expenses and personal property losses.

Fixed payments are designed to facilitate agreements, accelerate the delivery of funds to displaced persons, simplify administration, and minimize redtape. Generally, optional payments will be advantageous to displaced persons and to administering agencies, and the use of such payments should be encouraged. In some instances, however, a displaced person will find it desirable to prove his actual expenses and personal property losses, as where a displaced business does not qualify for an optional fixed payment, or in the case of displaced large business or farm operations which must move substantial amounts of machinery, equipment or stock at costs in excess of the maximum payment available under the optional provision.

* * * * *

Payments for direct losses of property are allowed where a person who is displaced from his place of business or farm operation is entitled to relocate his property, but does not do so. Typical items in the case of a business include equipment, machinery, or fixtures which are no longer required, where the business or farm operation is to be discontinued or the property is not suitable for use at the new location.

The relocation of old trade fixtures, machinery, or equipment frequently is impractical or uneconomical, if not impossible, and could be a deterrent to the successful re-establishment of a business.

A person displaced from a business or farm operation may be compensated for actual direct property losses, whether he discontinues, or reestablishes his operation. However, the maximum amount of any such payment may not exceed the reasonable expenses that would have been required to relocate the property and, in the case of heavy machinery, equipment, or other property involving substantial sums, also should not exceed the in-place value of the property.

[Section 7290]

~~Section 7290~~ also authorizes payment for actual reasonable expenses incurred by a displaced person in searching for a replacement business or farm. The Army Corps of Engineers has made payments of this kind to displaced farm operators for many years without difficulty. In general, the Engineers' guidelines provide for transportation expenses, meals, and lodging away from home, and within established limits for the reasonable value of time actually spent in search. The Engineers have found this provision particularly helpful in situations where the acquisition of large numbers of farms, for a reservoir project, has made it difficult to locate a suitable replacement in the vicinity of the project, and necessitated a move to a location at a considerable distance from the old location.

The committee expects the heads of Federal agencies to include appropriate provisions in their regulations and procedures implementing the bill that will assure that payments under the bill are held to reasonable limits, including reasonable mileage limitations.

The bill does not provide such payments for displaced persons required to move from their dwellings, inasmuch as the optional moving expenses payment and fixed dislocation allowance available to all such persons under ~~the bill~~ is considered to achieve the same general objective, without substantive administrative effort that would be required if such provisions were made applicable to dwellings.

[Section 7291]

§ 7291. In lieu payments for persons displaced from dwelling

7291. Any displaced person eligible for payments under Section 7290 who is displaced from a dwelling and who elects to accept the payments authorized by this section in lieu of the payments authorized by Section 7290 may receive a moving expense allowance, determined according to a schedule, not to exceed three hundred dollars (\$300), and a dislocation allowance of two hundred dollars (\$200).

Comment. Section 7291 is substantively identical to subsection (b) of Section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971). See Section 7281 (schedule to be prescribed by governing body).

§ 7292. In lieu payments for persons displaced from business or farm

7292. (a) Any displaced person eligible for payments under Section 7290 who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this section in lieu of the payment authorized by Section 7290 may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than two thousand five hundred dollars (\$2,500) nor more than ten thousand dollars (\$10,000).

(b) In case of a business, no payment shall be made under this section unless the business:

(1) Cannot be relocated without a substantial loss of its existing patronage; and

(2) Is not a part of a commercial enterprise having at least one other establishment not being acquired by the acquirer, which is engaged in the same or similar business.

Comment. Section 7292 is substantively identical to the first two sentences of subsection (c) of Section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971). Subdivision (b) of Section 7292 contains no phrase comparable to "unless the head of the federal agency is satisfied that the business . . ." which appears in the federal act; the omitted phrase is unnecessary since Section 7282 makes the decision of the governing body of the acquirer final of determinations as to eligibility for or amount of payment. See Section 7263 (defining "average annual net earnings").

§ 7293. Move from dwelling required by acquisition of property used for business or farm operation

7293. Whenever the acquisition of real property used for a business or farm operation causes any person to move from other real property used for his dwelling, or to move his personal property from such other real property, the acquirer may, in its discretion, pay such person for moving and related expenses under Sections 7290 and 7291 and provide such person with relocation advisory assistance under Section 7330.

Comment. No comparable provision is contained in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S.1, Jan. 2, 1971). However, the provision is consistent with the intent of the federal statute. See House Comm. on Public Works, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, H.R. Rep. No. 1656, 91st Cong., 2d Sess. (1970) at 8 (displaced owner-occupant of a multifamily dwelling), 11-12 (displaced owner-occupant of building used as dwelling and for business purposes).

Article 4. Replacement Housing

§ 7300. Replacement housing for homeowner

7300. (a) In addition to the payment provided by Article 3 (commencing with Section 7290), as a part of the cost of the program or project for which the property was acquired, the acquirer ~~may~~, in its discretion make an additional payment not in excess of \$15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred eighty (180) days prior to the first written offer for the acquisition of the property. Such additional payment shall include the following elements:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment, and available on the private market.

(2) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount may be paid only if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty (180) days prior to the first written offer for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the

§ 7300

acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

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

(b) The additional payment authorized by this section may be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one-year period beginning on the date on which he receives final payment of all costs of the acquired dwelling, or the date on which he moves from the acquired dwelling, whichever is the later date.

Comment. Section 7300 is substantively identical to subsection (a) of Section 203 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971) except that the payment under Section 7300 is discretionary while the payment under the federal act is mandatory.

"Mortgage" is defined in Section 7270. See also Section 7281(c)(2) (standards for decent, safe, and sanitary dwelling), (5) (interest differential payments schedule). Section 7300 uses more precise language (prior to the "first written offer") than the federal statute (prior to the "initiation of negotiations").

For the background that led to the enactment of Section 203 of the federal statute upon which Section 7300 is based and an explanation of Section 203, see House Comm. on Public Works, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, H.R. Rep. No. 1656, 91st Cong., 2d Sess. 10-12 (1970), stating:

This section builds upon the principle, recognized for the first time in any nationwide program in the Federal-Aid Highway Act of 1968 (Sec. 506(a)) and subsequently adopted in programs of the Department of Housing and Urban Development, that, at least within specified limits, a displaced home owner should not be left worse off economically than he was before displacement, and should be able to relocate in a comparable dwelling which is decent, safe and sanitary, and adequate to accommodate him, within standards established by the head of the Federal agency having authority over the program for which he is displaced.

The additional payment, not to exceed \$5,000, authorized by that Act as a supplement to the market value payment for real property under traditional eminent domain concepts, represented a substantial advance in the field of relocation legislation. Its primary value, however, has been to displaced persons in locations where comparable and decent replacement housing is available, or can readily be made available, at somewhat higher prices than the market value payments for the dwellings acquired for a program or project. In these locations, the supplemental payment often is sufficient to cover the housing cost differential and, if broadly administered, could cover closing costs and, to some degree, the loss of favorable financing.

However, it is evident that this does not provide the means for solving the more difficult relocation problems, especially in large heavily populated urban areas, as well as in rural areas, where an adequate supply of such housing is not available and cannot be developed to sell at prices, and at terms, including monthly debt service costs, which displaced persons can afford. In these instances, even if the full \$5,000 supplement were made available to such a person the total amount available would not be adequate to stimulate the development of the necessary additional housing, and may contribute to increased prices for whatever limited housing is available. Consequently, in some cases the objective of the 1968 Act has not been met, and important projects continue to be delayed or stopped.

This section therefore authorizes a supplemental payment to any person displaced for a Federal project (section 210 makes the same payments available to Federal financially assisted projects)

* * * * *

To facilitate the administration of this provision, the determination of the amount of the payment may be based upon a schedule adopted by such Federal agency head, which shall be computed by taking into account the foregoing factors.

The following shows the calculation of a payment for increased interest costs:

Example of computation of payment for increased interest cost

DWELLING TO BE ACQUIRED	
Acquisition price.....	\$12,000.00
Existing mortgage:	
Interest rate (percent).....	6
Remaining term (years).....	10
Remaining principal balance.....	\$7,295.93
Monthly principal and interest payment.....	\$81.02
Owner's equity.....	\$4,704.07
AVAILABLE COMPARABLE DECENT, SAFE, AND SANITARY DWELLING	
Price.....	\$15,000.00
Prevailing interest rate (percent).....	8
Supplemental payment for replacement housing cost differential.....	\$3,000.00
Payment for increased interest cost.....	\$700.00

COMPUTATION OF PAYMENT FOR INCREASED INTEREST COST

Monthly principal and interest cost for new mortgage of \$7,295.93— for 10 years at 8 percent interest.....	\$88.57
Monthly principal and interest cost for existing mortgage of \$7,295- .93—for 10 year at 6 percent interest.....	\$81.02
Monthly interest difference.....	7.55
Present worth of \$7.55 monthly interest difference for 10 years, dis- counted at the assumed interest rate paid on savings deposits, at 5 percent.....	\$700.00
Increased interest cost payment due property owner.....	\$700.00

(3) An amount to compensate the home owner for reasonable costs of evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not for prepaid expenses.

To qualify for any payment under this section, a displaced person must move from a dwelling owned and occupied by him for not less than 180 days before the initiation of negotiations for the acquisition of the property. The dwelling may be a single family building, a one-family unit in a multi-family building, a unit of a condominium or cooperative housing project, or any other residential unit, including a mobile home which either is considered to be real property under state law, cannot be moved without substantial damage or unreasonable cost, or is not a decent, safe and sanitary dwelling; and it is "owned" by the displaced person, if he holds the fee title, a life estate, a 99 year lease, or a lease with not less than 50 years to run from the date of the acquisition of the property or has an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any of such estates or interests.

In addition, subsection (a)(2) provides that such a payment shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling not later than the end of the one-year period beginning on the date on which he receives from the Federal agency final payment of all costs of the acquired dwelling, or the date on which he moves from the acquired dwelling, whichever is the later date.

Any dwelling which meets the standards established by the head of the Federal agency concerned, including a unit of a condominium or cooperative housing project, or where appropriate a mobile home, may be a replacement dwelling. A displaced person "purchases" such a dwelling within the intent of such subsection whether he acquires an existing dwelling, purchases and rehabilitates a substandard dwelling, relocates, or relocates and rehabilitates an existing dwelling, constructs a new dwelling, contracts to purchase a dwelling to be constructed on a site provided by a builder or developer, or enters into a contract for the construction of a dwelling on a site which he owns or acquires for the purpose.

The Committee recognizes that there may be instances in which the completion of construction or rehabilitation of a replacement dwelling may be delayed, for reasons not within the reasonable control

of the displaced person, beyond the date by which occupancy is required by such subsection. Where this occurs, the head of the Federal agency concerned may determine the date of occupancy as the date that the displaced person enters into a contract for such construction or rehabilitation, or for the purchase, upon completion, of a dwelling to be constructed or rehabilitated on a site provided by a builder or developer, if in fact the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed.

Such a determination should rarely be necessary since ordinarily the displacement will not occur until the replacement dwelling is ready. The Committee has in mind, however, the situation where, for example, although existing comparable replacement dwellings may be available, the displaced person prefers to enter into a contract to purchase a dwelling to be constructed in a subdivision, or contracts for the construction of a dwelling on a site which he owns or acquires for the purpose. In such a case, the schedule for construction of the project may make it necessary for him to move to temporary quarters before the new dwelling is available. The discretionary authority of the head of the Federal agency to recognize an earlier date of occupancy in such a case can preserve the displaced homeowner's options in obtaining a replacement dwelling, without adversely affecting the progress on, or increasing the cost of, the program or project.

Whenever a displaced person is eligible for a payment under this section except that he has not yet purchased a replacement dwelling, the head of the Federal agency concerned shall at the request of the displaced person provide a written statement to any interested person, financial institution or lending agency as to such person's eligibility for a payment and the requirements that must be satisfied before such payment can be made. If the proposed replacement dwelling has been selected or if plans and specifications are available for the construction or rehabilitation of a proposed dwelling the agency shall, after inspecting the dwelling or plans and finding that they meet the required standards, include such finding and the amount of the payment to be available in such statement.

Any payment to a displaced person who is required to move from a one-family unit of a multi-family building owned by such person, will be based on the cost of a comparable one-family unit in a multi-family building or a single-family structure, without regard to the number of units in his building. No payment under this section will affect any displaced person's eligibility to receive a payment under ~~section 7293~~ for business earnings attributable to rental units or other legitimate business activities conducted in portions of the building not included in his dwelling. [See Section 7293.]

When two or more individuals living together in a single-family dwelling are displaced from a dwelling, they will be regarded as one displaced person for the purposes of this section, or ~~section 7294~~ and ~~section 7295~~. Each such individual, however, may receive a payment for actual moving expenses and losses under ~~section 7296~~.

[Sections 7290-7292]

[Section 7301]

[Section 7302]

[Section 7296]

[Section 7290]

§ 7301. Replacement housing for tenants and certain others

7301. In addition to the payment authorized by Article 3 (commencing with Section 7290), as a part of the cost of the program or project for which the property was acquired the acquirer may, in its discretion, make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under Section 7300, which dwelling was actually and lawfully occupied by such displaced person for not less than ninety (90) days prior to the first written offer for acquisition of such dwelling. Such payment shall be either:

(a) The amount necessary to enable such displaced person to lease or rent for a period not to exceed four years a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, not to exceed four thousand dollars (\$4,000); or

(b) The amount necessary to enable such person to make a downpayment, including incidental expenses described in paragraph (3) of subdivision (a) of Section 7300, on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed four thousand dollars (\$4,000) except that, if such amount exceeds two thousand dollars (\$2,000), such person must equally match any such amount in excess of two thousand dollars (\$2,000) in making the downpayment.

Comment. Section 7301 is substantively identical to Section 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971) except that the payment under Section 7301 is discretionary while the payment under the federal act is mandatory.

§ 7302. Housing replacement by acquirer as last resort

7302. When the program or project for which property is required cannot proceed to actual construction because comparable replacement sale or rental housing is not available and the governing body of the acquirer determines that such housing cannot otherwise be made available, it may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such program or project.

Comment. Section 7302 is substantively identical to Section 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

Article 5. Property Acquired for Airport Purposes

§ 7310. Additional payment to certain owners of "affected property"

7310. In addition to the payment required by Article 3 (commencing with Section 7290), as a cost of the program or project for which the property was acquired, the acquirer may, in its discretion, make a payment to any owner of affected property if all of the following requirements are met:

(a) Such affected property is immediately contiguous to property acquired for airport purposes and the owner has owned the property affected by acquisition by the public entity for not less than one year prior to the first written offer for acquisition of the acquired property.

(b) Such payment, not to exceed five thousand dollars (\$5,000), is the amount, if any, which equals the actual decline in the fair market value of the affected property caused by the acquisition by the acquirer for airport purposes of the contiguous property and a change in the use of the contiguous property.

(c) The amount, if any, of actual decline in fair market value of affected property is determined according to rules and regulations adopted by the acquirer pursuant to this chapter. Such rules and regulations shall limit payment under this section only to such circumstances in which the decline in fair market value of affected property is reasonably related to objective physical change in the use of acquired property.

Comment. Section 7310 is substantively identical to former Section 7265. See Section 7262 (defining "affected property").

Article 6. Persons Displaced by Code Enforcement,
Rehabilitation, and Demolition Programs

§ 7320. Persons displaced by code enforcement, rehabilitation, and similar programs

7320. The governing body of any public entity may, in its discretion, make payments and provide services substantially equivalent to those provided to displaced persons under this chapter to a person who moves or discontinues his business, or moves other personal property, or moves from his dwelling, as a direct result of rehabilitation or demolition projects or programs, or enforcement of building codes, or similar projects or programs.

Comment. Section 7320, which provides discretionary authority to make payments and to provide relocation services to certain persons, implements Section 217 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

Article 7. Relocation Advisory Assistance

§ 7330. Relocation advisory services

7330. (a) An acquirer is authorized to give relocation advisory services to any person, business, or farm operation:

(1) Displaced by the acquisition of real property by the acquirer;

or

(2) Occupying property adjacent to real property acquired by the acquirer who is caused substantial economic injury because of the acquisition.

(b) The acquirer may provide, but is not limited to, the measures, facilities, and services listed in subsection (c) of Section 205 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646, 91st Congress, S. 1, January 2, 1971).

Comment. Section 7330 gives all acquirers authority to provide relocation advisory assistance. The section grants broad authority to do whatever is necessary to comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

§ 7331. Contracts with public or private agencies

7331. In order to prevent unnecessary expenses and duplications of functions and to promote uniform and effective administration of relocation assistance programs for displaced persons under this chapter, an acquirer may enter into a contract with any individual, firm, association, or corporation for services in connection with such program, or may carry out its functions under this chapter through any federal, state, or local governmental agency having an established organization for conducting relocation assistance programs. Any acquirer may, in carrying out its relocation assistance activities, utilize the services of state or local housing agencies or other agencies having experience in the administration or conduct of similar housing assistance activities.

Comment. Section 7331 is based on, and implements, Section 212 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 91st Cong., S. 1, Jan. 2, 1971).

Health and Safety Code § 33135. (conforming amendment)

Sec. 3. Section 33135 of the Health and Safety Code is amended to read:

33135. Upon request from and at the expense of any public body, an agency may, outside any survey area, with the approval of the legislative body, provide (1) relocation assistance to persons displaced by governmental action, and (2) aid and assistance to property owners in connection with rehabilitation loans and grants. Nothing in this section exempts an agency from compliance with the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

Comment. The provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code establish minimum standards of relocation assistance with which all public entities must comply.

Health and Safety Code § 33415. (conforming amendment)

Sec. 4. Section 33415 of the Health and Safety Code is amended to read:

33415. (a) An agency may make relocation payments to or with respect to persons (including families, business concerns, and others) displaced by a redevelopment project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government. Nothing in this section exempts an agency from compliance with the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

~~(b)--An-agency-in-a-county-having-a-population-of-more-than-four million-persons-may-make-any-of-the-payments-authorized-by-Chapter-16 (commencing-with-Section-7260)-of-Division-7-of-Title-1-of-the-Government-Code,-including-the-making-of-such-payments-financed-by-the federal-government.~~

Comment. The provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code establish minimum standards of relocation assistance with which all public entities must comply.

Health and Safety Code § 34014. (conforming amendment)

Sec. 5. Section 34014 of the Health and Safety Code is amended to read:

34014. Property in a disaster area may be acquired by a redevelopment agency under this part and the agency may demolish and remove any structures on the property, pay all costs related to the acquisition, demolition, or removal, including any administrative or relocation expenses and assume the responsibility to bear any loss that may arise as the result of the exercise of authority under this part without the necessity of meeting any condition precedent to such activities prescribed by the Community Redevelopment Law. Property acquired under this part may be acquired in any manner permitted by the Community Redevelopment Law. Nothing in this section exempts a redevelopment agency from compliance with the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

Comment. The provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code establish minimum standards of relocation assistance with which all public entities must comply.

Health and Safety Code § 34330. (conforming amendment)

Sec. 6. Section 34330 of the Health and Safety Code is amended to read:

34330. An authority shall have the power to:

(a) Assist in relocating in suitable housing accommodations at rentals within their means persons of low income who have been or will be deprived of dwellings within areas or buildings which have been or will be cleared or demolished. In connection with any project, an authority shall maintain or provide for the maintenance of tenant placement service in which there shall be recorded lists of untenanted, suitable dwellings available to persons of low income and shall furnish such information to such persons. An authority shall from time to time make studies and surveys of dwelling units which may become unoccupied and available to persons of low income and shall also make arrangements with owners and lessors of such dwellings for registration thereof with the tenant placement service. In connection with any project, an authority may pay so much of the necessary cost of removal of persons of low income, and of business or commercial tenants, from the area or buildings to be cleared for the development of the project to suitable locations in such cases and in such amounts as may be approved by the authority. Removal costs so paid by an authority shall be included in the project cost. Nothing in this subdivision exempts an authority from compliance with the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

(b) Exercise the powers set forth in subdivision (a), in connection with the relocation of persons of low income who are displaced by any public or private improvement within its area of operation. The financing of such relocation activities by an authority shall be arranged by contract with the public or private agency undertaking the improvement which makes such relocation necessary.

(c) Admit to a dwelling in any project of the authority any person or persons residing in an area or building to be cleared or demolished as described in subdivision (a) or (b), if the probable aggregate annual income of such person or persons does not exceed the income limit for continued occupancy established by the authority for the dwelling to which such person or persons is admitted.

Comment. The provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code establish minimum standards of relocation assistance with which all public entities must comply.

Public Utilities Code § 600. (repealed)

Sec. . 7. Article 6 (commencing with Section 600) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

Comment. Article 6 (consisting of only one section--Section 600) is superseded by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

Note: The repealed section read as follows:

600. A public utility acquiring real property in a county having a population of more than four million persons by eminent domain is authorized to give relocation advisory assistance and to make any of the payments authorized by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. For the purposes of this section, a public utility shall be considered to be a "public entity" other than a state agency, as defined by Section 7260 of the Government Code.

Public Utilities Code §§ 21690.5-21690.17. (repealed)

Sec. 8. Article 4.5 (commencing with Section 21690.5) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code is repealed.

Comment. Article 4.5 (commencing with Section 21690.5) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code which provided relocation assistance for persons displaced for airport purposes is superseded by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

Note: The repealed sections read as follows:

21690.5. This article may be cited as the "California Legislature Airports, Airways and Airport Terminals Development and Relocation Act of 1969."

21690.6. The Legislature hereby finds that the state's airport and airway system is inadequate to meet current and projected growth in aviation and that substantial expansion and improvement of the system is required to meet the demands of interstate and intrastate commerce, the postal service and the national defense. The Legislature finds that users of air transportation are capable of making a greater financial contribution to the expansion and improvement of the system through increased user fees. The Legislature finds, however, that such users should not be required to provide all of the funds necessary for future development of the system, and that revenues obtained from the general taxpayer will continue to be required to pay for the use of such facilities by the military and for the value to national defense and the general public benefit in having a safe, efficient airport and airway system available and fully operational in the event of war or national emergency. The Legislature also finds that the continued development and expansion of an adequate and up-to-date comprehensive state airport and airway system will require the acquisition of agricultural, residential, commercial, industrial and miscellaneous types of properties for the same; and that many persons and business will have to be relocated. The Legislature finds further that it is in the best interests of the people of the State of California to help all those persons forced to relocate when airport expansion and construction requires them to lose their businesses and homes. It is the purpose of this act to provide the means by which adequate compensation and immediate assistance will be provided for relocation and moving expenses and other costs involved in the necessary moving of a business or home to make way for airport expansion and development.

21690.7. (a) "Displaced person" means any individual, family, business or farm operation which moves from real property acquired for federal, state or local airport expansion and development.

(b) "Individual" means a person who is not a member of a family.

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

(d) "Business" means any lawful activity conducted primarily for the purchase and resale, manufacture, processing or marketing of products, commodities, or other personal property, or for the sale of services to the public, or by a nonprofit corporation.

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

(f) "Airport expansion and development" means the construction, alteration, improvement, or repair of airport hangars; airport passenger or freight terminal buildings and other building required for the administration of an airport; public parking facilities for passenger automobiles; roads within the airport boundaries; and any acquisition of land adjacent to or in the immediate vicinity of a public airport, including any interest therein, or any easement through or any other interest in airspace, for the purpose of assuring that activities and operations conducted thereon will be compatible with normal airport operations.

(g) "Public entity" includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state when acquiring real property or any interest therein for airport expansion and development, except the Department of Public Works of this state.

21690.8. The payment of moving expenses shall be made to eligible persons in accordance with the provisions of this act and such rules and regulations as shall be adopted by the public entity.

21690.9. The public entity is authorized to adopt rules and regulations to implement the payment of moving expenses as authorized by this act. Such rules and regulations may include provisions authorizing payments to individuals and families of fixed amounts not to exceed two hundred dollars (\$200) in lieu of their respective reasonable and necessary moving expenses.

21690.10. The public entity is authorized to give relocation advisory assistance to any individual, family, business or farm operation displaced because of the acquisition of real property for any state or federal airport project.

§§ 21690.11, 21690.12,
21690.13

21690.11. In giving relocation advisory assistance, the public entity may establish a local relocation advisory assistance office to assist in obtaining replacement facilities for individuals, families and businesses affected by airport expansion or development.

21960.12. (a) As a part of the cost of construction the public entity may compensate a displaced person for his actual and reasonable expenses in moving himself, family, business or farm operation, including moving personal property.

(b) Any displaced person who moves from a dwelling may elect to receive in lieu of his actual and reasonable moving expenses a moving expense allowance, determined according to a schedule established by the public entity not to exceed two hundred dollars (\$200), and in addition a dislocation allowance of one hundred dollars (\$100).

(c) Any displaced person who moves or discontinues his business or farm operation may elect to receive in lieu of his actual and reasonable moving expenses a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, or five thousand dollars (\$5,000), whichever is lesser. In the case of a business, no payment shall be made under this subdivision unless the public entity is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one other establishment, not being acquired, which is engaged in the same or similar business. For purposes of this subdivision, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before federal, state and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, and includes compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such two-year period. To be eligible for the payment authorized by this subdivision the business or farm operation must make its state income tax returns available and its financial statements and accounting records available for audit for confidential use to determine the payment authorized by this subdivision.

21690.13. In addition to the payments authorized by Section 21690.12, the public entity, as a part of the cost of construction, may make a payment to the owner of real property acquired for an airport project, which is improved with a single-, two- or three-family dwelling actually owned and operated by the owner for not less than one year prior to the first written offer for the acquisition of such property. Such payment shall be the amount, if any, which, when added to the acquisition payment, equals the average price required for a comparable dwelling determined, in accordance with standards established by the public entity, to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and place of employment and available on the market. Such payment shall be made only to the displaced owner who purchases a dwelling, that meets standards established by the public entity, within one year subsequent to the date on which he is required to move from the dwelling acquired for the project.

21690.14. In addition to the payment authorized by Section 21690.12, as a part of the cost of construction, the public entity may make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under Section 21690.13, which dwelling was actually and lawfully occupied by such individual or family for not less than 90 days prior to first written offer for the acquisition of such property. Such payment, not to exceed one thousand five hundred dollars (\$1,500), shall be the additional amount which is necessary to enable such individual or family to lease or rent for a period not to exceed two years, or to make the downpayment on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.

21690.15. Any displaced person aggrieved by a determination as to eligibility for a payment authorized by this act, or the amount of a payment, may have his application reviewed by the public entity. This review shall include the right to the appointment of an independent appraiser approved by the owner to review the amount of the award under Section 21690.13.

21690.16. The public entity is authorized to adopt rules and regulations relating to relocation assistance as may be necessary or desirable under state and federal laws and the rules and regulations promulgated thereunder. Such rules and regulations shall include provisions relating to:

(a) A moving expense allowance, as provided in Section 21690.12, subdivision (b), for a displaced person who moves from a dwelling, determined according to a schedule, not to exceed two hundred dollars (\$200);

(b) The standards for decent, safe and sanitary dwellings;

(c) Procedure for an aggrieved displaced person to have his determination of eligibility or amount of payment reviewed by the public entity; and

(d) Eligibility for relocation assistance payments and the procedure for claiming such payments and the amounts thereof.

21690.17. No payment received by a displaced person under this act shall be considered as income for the purposes of the Personal Income Tax Law or the Bank and Corporation Tax Law, nor shall such payments be considered as income of resources to any recipient of public assistance and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code.

Public Utilities Code §§ 29110-29117. (repealed)

Sec. 9. Article 9 (commencing with Section 29110) of Chapter 6 of Part 2 of Division 10 of the Public Utilities Code is repealed.

Comment. Article 9 (consisting of Sections 29110-29117) of Chapter 6 of Part 2 of Division 10 of the Public Utilities Code, which provided relocation assistance by San Francisco Bay Area Rapid Transit District, is superseded by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

Note: The repealed sections read as follows:

29110. As used in this article:

(a) "Eligible person" means any individual, family, business concern, farm, or nonprofit organization to be displaced by a district construction project.

(b) "Construction project" means the acquisition of real property or any interest therein for public use by the district.

(c) "Public use" means a use for which property may be acquired by eminent domain.

(d) "Moving expenses" means the packing, loading, transportation, unloading, and unpacking of personal property.

29111. As a part of the cost of a construction project, the district shall compensate eligible persons for their reasonable and necessary moving expenses caused by their displacement from real property acquired for such project.

29112. The payment of moving expenses shall be made to eligible persons in accordance with the provisions of this article and such rules and regulations as shall be adopted by the district.

29113. Payment of moving expenses shall not exceed two hundred dollars (\$200) in the case of an individual or family.

29114. Payment for moving expenses shall not exceed three thousand dollars (\$3,000) in the case of a business concern, farm, or nonprofit organization.

29115. In the case of a business concern, farm, or nonprofit organization, the allowable expenses for transportation shall not exceed the cost of moving fifty (50) miles from the point from which such business concern, farm, or nonprofit organization is being displaced.

§§ 29116, 29117

29116. The district is authorized to adopt rules and regulations to implement the payment of moving expenses as authorized by this article. Such rules and regulations may include provisions authorizing payments made to individuals and families of fixed amounts not to exceed two hundred dollars (\$200) in lieu of their respective reasonable and necessary moving expenses.

29117. The district is authorized to give relocation advisory assistance to any family displaced because of acquisition or clearance of rights-of-way for a construction project.

Urgency clause

Sec. 10. This act is an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The acquisition of real property for public use is requiring an increasing number of citizens to move and relocate their residences, farms, and businesses. These persons incur expenses which are not fully compensated for under California law. The "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" provides for federal participation in relocation assistance and payments only where such payment is authorized by state law. The prompt and equitable relocation and re-establishment of families, farms, and businesses is necessary. The expeditious implementation of relocation payments and advisory assistance is necessary for the efficient operation of programs for acquisition of property for public use. Immediate statutory authorization to make such payments and assistance is required. It is therefore necessary that this act go into immediate effect.