

CHAPTER 111
ASSISTANCE TO DISPLACED PERSONS

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" **§111-1 Findings and declaration of legislative purpose.** The legislature hereby finds and declares that it is in the public interest that persons lawfully residing on or lawfully occupying real property and displaced by any action undertaken by any state or county governmental agency should be compensated for such displacement under certain circumstances. The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of owners, tenants, other persons, and business concerns lawfully residing on or lawfully occupying real property and displaced by the acquisition of real property for public or other purposes in the public interest and by building, zoning, and housing code enforcement activities. [L 1970, c 166, §1; am L 1979, c 54, §1; am L 1987, c 10, §1 and c 162, §1]

Cross References

Dislocated lessees, see §§101-3.5 and 171-142.

Case Notes

Adequate relocation assistance must be provided prior to eviction. 61 H. 144, 598 P.2d 161; 61 H. 156, 598 P.2d 168.

" **§111-2 Definitions.** As used in this chapter, the term:

"Business" means any lawful activity conducted (1) primarily for the purchase and resale, manufacture, processing or marketing of products, commodities, or any other personal property; (2) primarily for the sale of services to the public; or (3) by a nonprofit organization.

"Code" means the housing, building, and zoning codes of the counties.

"Displaced person" means any person who is lawfully residing on or lawfully occupying real property and is required to move from any real property on or after June 25, 1970, as a result of the acquisition or imminence of acquisition of such real property, in whole or in part, by a state agency or who moves from such real property as a result of the acquisition or imminence of acquisition by such state agency of other real property on which such person is lawfully conducting a business or farm operation. "Displaced person" also includes the foregoing movements from real property by any person lawfully residing on or lawfully occupying real property who is required to move from any real property as a result of code enforcement activities. "Displaced person" as defined in this chapter shall not include a tenant upon or occupier of state land under a revocable permit which is issued or renewed on or after June 7,

1974, provided that those persons who are issued revocable permits on state land which they had previously occupied as lawful tenants or lawful occupiers of private land which is subsequently acquired by the State, by virtue of which acquisition the revocable permits are issued immediately upon acquisition, shall be entitled to assistance as displaced persons upon displacement at the termination of the revocable permits. "Displaced persons" as defined in this chapter shall also not include a squatter or trespasser upon state land or any person unlawfully residing on or unlawfully occupying any real property.

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

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

"Person" means (1) any individual, partnership, or corporation or association which is the owner of a business; (2) any owner, part-owner, tenant, or sharecropper operating a farm; (3) the head of a family; (4) an individual not a member of a family; (5) a nonprofit organization exempted from taxation under section 235-9.

"State agency" means an agency or instrumentality created by the State and includes, for purposes of this chapter, county governmental agencies. [L 1970, c 166, §2; am L 1974, c 181, §1; am L 1979, c 54, §2; am L 1987, c 10, §§2, 3 and c 162, §§2, 3]

Case Notes

City building department and the city department of housing and community development are state agencies. 61 H. 144, 598 P.2d 161.

Tenants forced to vacate when city building department ordered landlord to demolish building deemed to be in substandard condition were persons displaced "as a result of a governmental program of...code enforcement activities". 61 H. 144, 598 P.2d 161.

" **§111-3 Relocation payments.** (a) Except as provided in subsection (f) below, if any state agency displaces persons described herein, it shall make fair and reasonable relocation payments to such displaced persons as required by this chapter.

(b) A relocation payment to a displaced person shall be for the person's or its actual and reasonable moving expenses.

(c) Optional payments (dwelling). Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (b) may receive: (1) a moving expense allowance determined according to a schedule established by the state agency involved not to exceed \$300; and (2) a dislocation allowance in the amount of \$200.

(d) Optional payments (business and farm operations). Any displaced person who moves or discontinues the person's business or farm operations who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, or \$5,000, whichever is the lesser. In the case of a business, no payment shall be made under this subsection unless the state agency involved is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage; and (2) it is not part of a commercial enterprise having at least one other establishment, not being acquired by the state agency which is engaged in the same or similar business.

(e) In lieu of the payments authorized by subsections (b), (c), and (d), the state agency may at its option and at its expense undertake to move as applicable the personal effects or business or farm operation to the site to which the displaced person is to be relocated.

(f) If any state agency displaces any person as a result of code enforcement, that person shall be entitled to benefits under this section unless the displaced person is in any way responsible for the violation. The state agency shall have the right to recover from the party responsible for a code violation any moneys paid out under chapter 111. [L 1970, c 166, §3; am L 1973, c 67, §1(1); gen ch 1985; am L 1987, c 10, §4 and c 162, §4; am L 1988, c 94, §1]

" **§111-4 Replacement housing.** (a) In addition to any amount authorized in this chapter, the state agency involved in acquiring any real property shall make a payment to the owner of real property improved by a single-family, two-family, or three-family dwelling actually owned and occupied by the owner for not less than one year prior to the first written offer by the state agency for the acquisition of such property. Such payment, not to exceed \$15,000, 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 state agency to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced

owner, reasonably accessible to public services and places of employment, and available on the private market. Such payment shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which the owner is required to move from the dwelling on the real property acquired for public purposes.

(b) In addition to any amount authorized in this chapter, the state agency shall make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (a) which dwelling was actually and lawfully occupied by such individual or family for not less than ninety days prior to the first written offer by the state agency for acquisition of such property. Such payment, not to exceed \$4,000, shall be the amount which is necessary to enable such person 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. [L 1970, c 166, §4; gen ch 1985; am L 1988, c 95, §1]

" **[\$111-5] Not treated as income.** No payment received under this chapter shall be considered as income for purposes of the state income tax law; nor shall such payments be considered as income to any recipient of public assistance and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under state welfare program. [L 1970, c 166, §5]

" **[\$111-6] Relocation assistance programs.** (a) When actions of a state agency displace or will displace any person, it shall assure that a relocation assistance program for such displaced person offering the services herein prescribed is available to reduce hardship to those affected and to reduce delays in improvements and other programs for public or other purposes in the public interest. If the state agency determines that other persons, business concerns, farm operations, or nonprofit organizations occupying property adjacent to any real property acquired are caused substantial economic injury because of the public improvement for which property is acquired, it may provide such persons, business concerns, farm operations, or nonprofit organizations relocation services under such program.

(b) Each relocation assistance program required by subsection (a) shall include such measures, facilities, or services as may be necessary or appropriate in order (1) to determine the needs of displaced persons for relocation assistance; (2) to assist owners of displaced business concerns

and farm operations in obtaining and becoming established in suitable business locations or replacement farms; (3) to supply information concerning programs of the federal government offering assistance to displaced persons and business concerns; (4) to assist in minimizing hardships to displaced persons in adjusting to relocation; and (5) to secure to the greatest extent practicable the coordination of relocation activities with other project activities and other planned or proposed state agency action in the community or nearby areas which may affect the carrying out of the relocation program. [L 1970, c 166, §6]

" **[§111-7] Assurance of availability of housing.** If any state agency displaces any person or persons, it shall provide a feasible method for the relocation of families and individuals displaced from the property acquired and assurance that there are or are being provided in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings equal in number to the number of displaced families and individuals and available to such displaced families and individuals and reasonably accessible to their places of employment. [L 1970, c 166, §7]

" **§111-8 Authority of Hawaii housing finance and development corporation.** (a) The Hawaii housing finance and development corporation shall make such regulations as may be necessary to assure: (1) that relocation payments authorized by section 111-3 are fair and reasonable; (2) that a displaced person that makes proper application for a relocation payment authorized by this chapter is, if personal property is disposed of and replaced for use at the new location, paid an amount equal to the reasonable expenses that would have been required in removing such personal property to the new location; (3) that a displaced person making proper application for and entitled to receive a relocation payment authorized by this chapter is paid promptly after the relocation; (4) that a displaced person has a reasonable time from the date of displacement in which to apply for a relocation payment authorized by this chapter.

(b) In order to prevent unnecessary expense and duplication of functions and to promote uniform and effective administration of relocation assistance programs for displaced persons, the Hawaii housing finance and development corporation may require that any other state or county agency may make relocation payments or provide relocation services or otherwise carry out its functions under this chapter by utilizing the

facilities, personnel, and services of an already existing agency designated by the Hawaii housing finance and development corporation or shall establish an organization for conducting relocation assistance programs or of any other agency conducting comparable programs. The Hawaii housing finance and development corporation, or other agency providing such services may charge a reasonable fee to any other agency utilizing its relocation assistance services. [L 1970, c 166, §8; am L 1987, c 337, §16; am L 1997, c 350, §14; am L 2005, c 196, §26(b); am L 2006, c 180, §16]

" **§111-8.5 Reimbursement procedure.** (a) The state agency shall make a written demand for the amount due under this chapter from any person responsible for a code violation. Such amount shall be recoverable by the state agency in the same manner as a debt due.

(b) If the owner of real property from which persons are forced to move because of code enforcement is the person responsible for the code violation, and the owner fails to pay the state agency within sixty days after written demand, the state agency may claim a lien against the real property from which persons are displaced. This lien shall be in addition to any other remedy the state agency may have. Such lien may be foreclosed in the same manner as liens for state taxes and in accordance with sections 231-61 to 231-68.

(c) Payments in accordance with this section to the state agency by the party responsible for the code violation shall not relieve the party from complying with the notices ordering compliance with codes issued by the state agency. [L 1973, c 67, §1(2); gen ch 1985; am L 1987, c 10, §5 and c 162, §5; am L 1989, c 14, §2]

" **§111-9 Rules and regulations.** The Hawaii housing finance and development corporation may adopt and amend rules and regulations to carry out the purposes of this chapter and may adopt all or any part of applicable federal rules and regulations which are necessary or desirable to obtain federal assistance in making payments hereunder. [L 1970, c 166, §9; am L 1987, c 337, §16; am L 1997, c 350, §14; am L 2005, c 196, §26(b); am L 2006, c 180, §16]

" **[§111-10] Conflicts between state and federal requirements.** If the funds for relocating any displaced person have been loaned or furnished, wholly or in part, by the United States, or any instrumentality thereof, under terms and provisions contrary to this chapter, the terms and provisions required by the United States, or any such instrumentality,

shall govern and are made applicable, and the officer expending such funds shall conform to such requirements as the United States, or any such instrumentality, shall provide or require, any law or laws of the State to the contrary notwithstanding. [L 1970, c 166, §10]

" **[§111-11] Fund availability.** The state agency shall include the cost specified in this chapter as a part of the cost of construction of the project for which a land acquisition program is initiated, or as part of the cost of any other program which displaces persons. Any funds appropriated or otherwise available to any state agency for a particular program or project shall be available also for obligation and expenditure to carry out the provisions of this chapter as applied to that program or project. [L 1970, c 166, §11]

" **§111-12 Appeals.** Any person aggrieved by a state agency's determination concerning eligibility for an amount of relocation payments authorized by this chapter or by a determination that the party is responsible for a code violation may appeal such determination to the circuit court of the circuit in which the displaced person or party then resides. The appeal shall be made pursuant to the administrative procedure act set forth in chapter 91. [L 1970, c 166, §12; am L 1973, c 67, §1(3); am L 1987, c 10, §6 and c 162, §6]