

SENATE, No. 987

STATE OF NEW JERSEY

INTRODUCED MAY 4, 1972

By Senators STOUT, PARKER, CRABIEL and ITALIANO

Referred to Committee on Transportation and Communications

AN ACT providing for relocation assistance to persons displaced by certain activities of the Department of Transportation or other taking agencies under programs administered by the Department of Transportation and repealing certain sections of P. L. 1968, c. 393 (C. 27:7-58 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the Uniform
2 Transportation Replacement Housing and Relocation Act.

1 2. Declaration of policy. The purpose of this act is to establish
2 a uniform program for the fair and equitable treatment of persons
3 displaced by the acquisition of real property by the Department of
4 Transportation and by local governmental units utilizing funds of
5 the Department of Transportation, State of New Jersey. This
6 program shall comply with the rules and regulations of the Fed-
7 eral Highway Administration relating to relocation assistance
8 so as to fully qualify the Department of Transportation for Federal
9 Aid Reimbursement under the Uniform Relocation Assistance
10 and Real Property Acquisition Policies Act of 1970. This pro-
11 gram shall be uniform as to (a) relocation payments, (b) advisory
12 assistance, (c) assurance of availability of standard housing and
13 (d) State reimbursement for local relocation payments under State
14 assisted and local programs.

1 3. Definitions. As used in this act:

2 a. "Taking agency" means the entity public or private, including
3 the State of New Jersey, Department of Transportation or local
4 governmental units utilizing State funds under an aid program
5 administered by the State of New Jersey, Department of Trans-
6 portation, which is condemning private property for a public pur-
7 pose under the power of eminent domain.

8 b. "Person" means any individual, partnership, corporation, or
9 association.

10 c. "Displaced person" means any person who on or after the
11 effective date of this act, moves from real property or moves his
12 personal property from real property as a result of the acquisi-
13 tion of such real property, in whole or in part, or as the result
14 of the written order of the taking agency to vacate real property,
15 for a program or project undertaken by a taking agency; and
16 solely for the purposes of sections 4 a. and 7 of this act, as a result
17 of the written order of the taking agency to vacate other real
18 property on which such person conducts a business or farm opera-
19 tion, for such program or project.

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

22 (1) For the purchase, sale, lease, and rental of personal and
23 real property and for the manufacture, processing, or marketing
24 of products, commodities, or any other personal property;

25 (2) For the sale of services to the public;

26 (3) By a nonprofit organization;

27 (4) For the purposes of section 4 a. of this act for assisting
28 in the purchase, sale, resale, manufacturing, processing or market-
29 ing of products, commodities, personal property or services by
30 the erection and maintenance of an outdoor advertising display or
31 displays, whether or not such display or displays are located on
32 the premises on which any of the above activities are conducted.

33 e. "Farm operation" means any activity conducted solely or
34 primarily for the production of one or more agricultural products
35 or commodities, including timber, for sale or home use, and cus-
36 tomarily producing such products or commodities in sufficient
37 quantity to be capable of contributing materially to the operator's
38 support.

39 f. "Mortgage" means such classes of liens as are commonly
40 given to secure advances on, or the unpaid purchase price of real
41 property under the laws of the State in which the real property is
42 located, together with credit instruments, if any, secured thereby.

43 g. "Commissioner" shall mean the Commissioner of Trans-
44 portation.

1 4. Moving and related expenses. a. If a taking agency acquires
2 real property for public use, it shall make fair and reasonable
3 relocation payments to the displaced persons and businesses as
4 required by this act for;

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

7 (2) Actual direct losses of tangible personal property as a result
8 of moving or discontinuing a business or farm operation, but not

9 to exceed an amount equal to the reasonable expenses that would
10 have been required to relocate such property, as determined by
11 the taking agency; and

12 (3) Actual reasonable expenses in searching for a replacement
13 business or farm.

14 b. Any displaced person eligible for payments under subsection
15 a. of this section who is displaced from a dwelling and who elects
16 to accept the payments authorized by this subsection in lieu of
17 payments authorized by subsection a. of this section may receive
18 a moving expense allowance, determined according to a schedule
19 established by the Department of Transportation, not to exceed
20 \$300.00 and a dislocation allowance of \$200.00.

21 c. Any displaced person eligible for payments under subsection
22 a. of this section who is displaced from his business or from his
23 farm operation and who elects to accept the payment authorized by
24 subsection a. of this section, may receive a fixed payment in an
25 amount equal to the average annual net earnings of the business
26 or farm operation, except that such payment shall not be less than
27 \$2,500.00 nor more than \$10,000.00. In the case of a business no
28 payment shall be made under this subsection unless the taking
29 agency is satisfied that the business

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

32 (2) Is not a part of a commercial enterprise having at least
33 one other establishment not being acquired by the taking agency
34 which is engaged in the same or similar business. For purposes
35 of this subsection, the term "average annual net earnings" mean
36 $\frac{1}{2}$ of any net earnings of the business or farm operation, before
37 Federal, State and local income taxes, during the 2 taxable years
38 immediately preceding the taxable year in which such business or
39 farm operation moves from the real property acquired for such
40 project, or during such other period as such agency determines
41 to be more equitable for establishing such earnings, and includes
42 any compensation paid by the business or farm operation to the
43 owner, his spouse or his dependent during such period.

1 5. Replacement housing for homeowners. a. In addition to pay-
2 ments otherwise authorized by this act, the taking agency shall
3 make an additional payment not in excess of \$15,000.00 to any
4 displaced person who is displaced from a dwelling actually owned
5 and occupied by such displaced person for not less than 180 days
6 prior to the initiation of negotiations of the acquisition of the
7 property. Such additional payment shall include the following
8 elements:

9 (1) The amount, if any, which when added to the acquisition
10 cost of the dwelling acquired, equals the reasonable cost of a com-
11 parable replacement dwelling which is a decent, safe, and sanitary
12 dwelling adequate to accommodate such displaced person, reason-
13 ably accessible to public services and places of employment and
14 available on the private market. All determinations required to
15 carry out this subparagraph shall be determined by regulations
16 issued pursuant to this act.

17 (2) The amount, if any, which will compensate such displaced
18 person for any increased interest costs which such person is re-
19 quired to pay for financing the acquisition of any such comparable
20 replacement dwelling. Such amount shall be paid only if the dwell-
21 ing acquired was encumbered by a bona fide mortgage which was
22 a valid lien on such dwelling for not less than 180 days prior to
23 the initiation of negotiations for the acquisition of such dwelling.
24 Such amount shall be equal to the excess in the aggregate interest
25 and other debt service costs of that amount of the principal of the
26 mortgage on the replacement dwelling which is equal to the unpaid
27 balance of the mortgage on the acquired dwelling, over the re-
28 mainder term of the mortgage on the acquired dwelling, reduced
29 to discounted present value. The discount rate shall be the pre-
30 vailing rate of interest paid on passbook savings account deposits
31 by commercial banks in the general area in which the replacement
32 dwelling is located.

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

37 (4) Penalty costs for prepayment of any mortgage entered into
38 in good faith encumbering such real property if such mortgage is
39 on record or has been filed for record as provided by law on the
40 date of approval by the taking agency of the location of the project.

41 (5) The pro rata portion of real property taxes payable during
42 the calendar year in which the property was acquired which are
43 allocable to the period of the year subsequent to date of vesting
44 of title in the taking agency or the effective date of the possession
45 of such real property by the taking agency, whichever is earlier
46 to the extent that the displaced person has either paid the said
47 taxes or is legally responsible therefor.

48 b. The additional payment authorized by this section shall be
49 made only to such a displaced person who purchases and occupies
50 a replacement dwelling which is decent, safe, and sanitary, not later
51 than the end of the 1-year period beginning on the date on which

52 he receives final payment of all costs of the acquired dwelling, or
53 on the date on which he moves from the acquired dwelling, which-
54 ever is the later date.

1 6. Replacement housing for tenants and certain others. In ad-
2 dition to amounts otherwise authorized by this act, a taking agency
3 shall make a payment to or for any person displaced from any
4 dwelling not eligible to receive a payment under section 5 which
5 dwelling was actually lawfully occupied by such displaced person
6 for not less than 90 days prior to the initiation of negotiations for
7 acquisition of such dwelling. Such payment shall be either:

8 a. The amount necessary to enable such displaced person to lease
9 or rent for a period not to exceed 4 years, a decent, safe and sani-
10 tary dwelling of standards adequate to accommodate such person
11 in areas not generally less desirable in regard to public utilities
12 and public and commercial facilities, and reasonably accessible
13 to his place of employment, but not to exceed \$4,000.00; or

14 b. The amount necessary to enable such person to make a down
15 payment, including incidental expenses described in section 5 a.
16 (3) on the purchase of a decent, safe, and sanitary dwelling of
17 standards adequate to accommodate such person in areas not
18 generally less desirable in regard to public utilities and public and
19 commercial facilities, but not to exceed \$4,000.00, except that if
20 such amount exceeds \$2,000.00 such person must equally match
21 any such amount in excess of \$2,000.00 in making the down pay-
22 ment.

1 7. Relocation assistance advisory service. a. Whenever the acqui-
2 sition of real property for a program or project undertaken by the
3 taking agency will result in displacement on or after the effective
4 date of this section, such agency shall provide a relocation assist-
5 ance advisory program for displaced persons which shall offer the
6 services prescribed herein. If the taking agency determines that
7 any person occupying property immediately adjacent to the real
8 property acquired is caused substantial economic injury because
9 of the acquisition, it may offer such person relocation advisory
10 services under such program.

11 b. Each relocation assistance program required by subsection a.
12 shall include such measures, facilities, or services as may be neces-
13 sary or appropriate in order (1) to determine the needs of dis-
14 placed persons, business concerns, and nonprofit organizations for
15 relocation assistance; (2) to assist owners of displaced business
16 and farm operations in obtaining and becoming established in suit-
16A able business locations or replacement farms; (3) to supply in-

17 formation concerning programs of the Federal, State and local
18 governments offering assistance to displaced persons and business
19 concerns; (4) to assist in minimizing hardships to displaced per-
20 sons in adjusting to relocation; and (5) to secure, to the greatest
21 extent practicable, the coordination of relocation activities with
22 other project activities and other planned or proposed govern-
23 mental actions in the community or nearby areas which may affect
24 the carrying out of the relocation program.

1 8. Whenever the acquisition of real property for a program or
2 project undertaken by a taking agency will result in the displace-
3 ment of any person on or after the effective date of this section, the
4 taking agency shall assure that, within a reasonable amount of time,
5 prior to displacement there will be available in areas not generally
6 less desirable in regard to public utilities and public and commercial
7 facilities, and at rents or prices within the financial means of the
8 families and individuals displaced, decent, safe and sanitary
9 dwellings, as defined by the commissioner equal in number to the
10 number of and available to such displaced persons who require such
11 dwellings and reasonably accessible to their places of employment
12 except that the commissioner may prescribe by regulation, situa-
13 tions where such assurances may be waived.

1 9. Replacement by a taking agency as a last resort. a. If a
2 project cannot proceed to actual construction because comparable
3 replacement sale or rental housing is not available, and the com-
4 missioner determines that such housing cannot otherwise be made
5 available he may take such action as is necessary or appropriate
6 to provide such housing by use of funds authorized for such project.

7 b. No person shall be required to move from his dwelling on or
8 after the effective date of this act on account of any project under-
9 taken by any taking agency, unless the commissioner is satisfied
10 that the replacement housing, in accordance with section 8, is
11 available to such person.

1 10. Payment not to be considered as income or resources. No
2 payment received by a displaced person under this act shall be
3 considered as income or resources for the purpose of determining
4 the eligibility or extent of eligibility of any person for assistance
5 under any State law or for the purposes of the State's corporation
6 tax law or other tax laws. Such payment shall not be considered
7 as income or resources of any recipient of public assistance and
8 such payment shall not be deducted from the amount of aid to which
9 the recipient would otherwise be entitled.

1 11. The payments authorized in this act shall not be construed
2 as creating in any condemnation proceeding brought under the
3 power of eminent domain any element of damages not in existence

4 on the effective date of this act and such payments are to be in
5 addition to the just compensation established in the condemnation
6 proceedings but only to the extent that they are not otherwise
7 included within the condemnation award.

1 12. Appeal procedure. Any person or business concern aggrieved
2 by any relocation procedure or determination concerning eligibility
3 for relocation payments authorized by this act may appeal such
4 determination to the commissioner or his designated appointee but
5 any such appeal must be filed within 1 year after the date of
6 actual relocation.

1 13. Rules and regulations. a. To carry into effect the provisions
2 of this act and to fully qualify the Department of Transportation
3 for Federal aid reimbursement under the Uniform Relocation
4 Assistance and Real Property Acquisitions Policies Act of 1970,
5 the commissioner is authorized to make such rules and regulations
6 as he may determine to be necessary to assure (1) that the pay-
7 ments and assistance authorized by this act shall be fair and
8 reasonable and as uniform as practicable; (2) a displaced person
9 who makes proper application for a payment authorized for such
10 person by this act shall be paid promptly after a move or in hard-
11 ship cases, be paid in advance; and (3) that any person aggrieved
12 by a determination as to eligibility for a payment authorized by
13 this act, or the amount of the payment, may have his application
14 reviewed by the commissioner or his designated appointee.

15 b. The commissioner may make such other rules and regulations
16 consistent with the provisions of this act as he deems necessary or
17 appropriate to carry out this act.

18 c. The commissioner to achieve a uniform administration of
19 related Federal and State laws, may adopt all or any part of ap-
20 plicable Federal rules and regulations.

21 d. In so far as is consistent with other provisions of this act, the
22 commissioner shall adopt the same standards, rules and regulations
23 with regard to relocation assistance and relocation payments for
24 all transportation projects whether or not such transportation
25 projects are subject to standards, rules and regulations of reloca-
26 tion assistance and relocation payments required by the Federal
27 Highway Administration as a condition of receiving Federal aid
28 funds.

1 14. Federal aid assistance, additional action to qualify depart-
2 ment. The commissioner is further authorized within the limits
3 of funds and appropriations to take such additional action as may
4 be required to fully qualify the department for any financial

5 Federal aid assistance available for carrying out the purposes of
6 this act.

1 15. There shall be made available from the funds appropriated
2 to the Department of Transportation the sum of \$100,000.00 for
3 purposes of enabling the Right-of-Way Division to implement the
4 provisions of this act.

1 16. If any provision of this act or the application thereof to any
2 person or circumstances is held invalid, the remainder of the act
3 in the application of such provision to persons or circumstances
4 other than those to which is held invalid shall not be affected
5 thereby.

1 17. Sections 1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 14 and 16 of P. L. 1968,
2 c. 393 are repealed, and all acts and parts of acts inconsistent with
3 any of the provisions of this act are, to the extent of such incon-
4 sistency, hereby repealed.

1 18. This act shall take effect on July 1, 1972.

STATEMENT

A uniform replacement housing and relocation policy is vitally necessary in order to aid those persons who are displaced by condemnation proceedings in conjunction with projects of the Department of Transportation or local governmental units utilizing funds of the Department of Transportation. This act will make it possible for those affected to adequately relocate and minimize the hardships attendant thereto which result from the exercise of the power of eminent domain. Also, it will be feasible for those persons displaced to upgrade their standard of housing through the application of the provisions of this act.

In addition, this act will make it possible for the Department of Transportation to fully qualify for Federal aid reimbursement under the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970.

FROM THE OFFICE OF THE GOVERNOR

JUNE 1, 1972

FOR RELEASE:
IMMEDIATE

Governor William T. Cahill today signed into law a number of bills covering transportation, consumer protection and environmental matters.

The Governor signed Senate 971, sponsored by Senator Alfred D. Schiaffo (R., Bergen), which authorizes a bond issue of \$650 million for vitally-needed improvements in New Jersey's public transportation system.

The bond issue will become effective upon approval by the voters at the general election in November.

The bond issue provides that \$240 million will be used to improve mass transportation facilities. The remainder will be used for the improvement and upgrading of the State's highway system. The money authorized in the bond issue will generate substantial federal funds for both mass transportation and highway programs.

The Governor also signed Senate 987, sponsored by Senator Richard R. Stout (R., Monmouth) which provides for a uniform program of relocation assistance to persons displaced by right-of-way acquisition programs of the Department of Transportation. Under this program, persons displaced will receive payment for moving and related expenses, monetary assistance to achieve comparable replacement housing and relocation advice.

This bill also requires county and municipal governments to establish similar programs with respect to projects which are supported by State funds. By enactment of this legislation, there is now a uniform relocation assistance program to aid every person displaced by a State agency. Legislation affecting all State agencies except the Department of Transportation was signed into law by Governor Cahill last year.

Governor Cahill also signed Senate 499, sponsored by Senator Garrett W. Hagedorn (R., Bergen), which will permit immediate use of the revised Federal Manual on Uniform Traffic Control Devices on all roads throughout New Jersey. Through the use of this manual, a uniform system for traffic signs, signals and road markings will be established. As more states throughout the country adopt this type of legislation, it will be possible to travel from state to state without encountering the confusion that is now caused by the lack of uniformity of traffic devices.

In addition, the Governor also signed the following bills:

Assembly Bill 826, sponsored by Assemblywoman Josephine S. Margetts (R., Morris), which provides that containers of milk shall be stamped with a "Not to be Sold After" date which shall be no later than five days following pasteurization. This new date replaces the day of pasteurization which is presently stamped on the container.

Under the new dating procedure consumers will be able to insure that the milk they purchase is fresh.

In addition, the Department of Health is given authority to promulgate rules and regulations governing the production, handling, processing and distribution of milk as may be necessary to preserve and promote public health.

In the environmental area, the Governor signed the following bills:

Assembly Bill 312, sponsored by Assemblywoman Joseph S. Margetts (R., Morris), which provides a framework for State and technical assistance to local environmental agencies as recommended by the New Jersey Commission on Open Space Policy. The bill appropriates \$100,000 to provide necessary funding and expertise necessary to deal with local environmental problems. The local environmental agency receiving State funds would have to expend a matching amount of local funds.

Senate Bill 234, sponsored by Senator James H. Wallwork (R., Essex), which allows the Department of Environmental Protection to establish pre-treatment standards for sewage discharge into public sewage treatment plants. It is designed to alleviate a health problem by requiring industry to treat waste waters before discharging them into the sewerage systems. The Governor stated, "One of the prime reasons for the bill is that some industrial wastes in New Jersey are so toxic in nature that public sewerage treatment plants have been unable to cope with it." The presence of industrial waste in sewage has made treatment of the sewage difficult and has rendered many of the primary and secondary treatment plants ineffective.

The Governor also signed Assembly Bill 981, sponsored by Assemblyman Thomas H. Kean (R., Essex), which appropriates an additional \$10,000,000 for Green Acres funds. The Governor noted that this new bill allows the Department of Environmental Protection to proceed with the acquisition of priority projects. In signing this bill, the Governor said, "This bill is a further indication of the desire of the citizens of New Jersey to provide adequate open space and recreational areas."

In addition, the Governor also signed the following bills:

Senate Bill 704, sponsored by Senator Barry T. Parker (R., Burlington), which provides for administrative hearings for water pollution control abatement orders and cuts down the time the Department of Environmental Protection must wait before bringing violators to court.

Assembly Bill 447, sponsored by Assemblyman Philip D. Kaltenbacher (R., Essex), which increases the license fees charged for the registration of power boats and power boat operators. The bill also provides for the issuance of duplicate special temporary registration numbers for boat dealers and manufacturers. The bill takes effect on the first day of the month following enactment.

Assembly Bill 555, sponsored by Assemblyman John F. Evers (R., Passaic), which is corrective legislation eliminating an unnecessary word which appears in Chapter 391 of the Laws of 1971 (which related to the prohibiting of a bank's holding certain securities as security for public monies on deposit in the same bank).

Assembly Bill 970, sponsored by Assemblyman Richard W. DeKorte (R., Bergen), which increases the tax from \$2.30 to \$2.80 on each gallon of liquor; imposes a tax of 30¢ on a gallon of wine, vermouth and sparkling wines; effective July 1, 1972.

Assembly Bill 998, sponsored by Assemblyman Richard W. DeKorte (R., Bergen), which increases registration fees for trucks, road tractors and truck tractors effective on the first day of the month following enactment.