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-CITE-

42 USC Sec. 4622

01/02/2006

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE

CHAPTER 61 - UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY

ACQUISITION POLICIES FOR FEDERAL AND FEDERALLY

ASSISTED PROGRAMS

SUBCHAPTER II - UNIFORM RELOCATION ASSISTANCE

-HEAD-

Sec. 4622. Moving and related expenses

-STATUTE-

(a) General provision

Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of -

(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 head of the agency;

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

(4) actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed \$10,000.

(b) Displacement from dwelling; election of payments: expense and dislocation allowance

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 an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency.

(c) Displacement from business or farm operation; election of payments; minimum and maximum amounts; eligibility

Any displaced person eligible for payments under subsection (a)

of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the head of the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall not be less than \$1,000 nor more than \$20,000. A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection.

(d) Certain utility relocation expenses

(1) Except as otherwise provided by Federal law -

(A) if a program or project (i) which is undertaken by a displacing agency, and (ii) the purpose of which is not to relocate or reconstruct any utility facility, results in the relocation of a utility facility;

(B) if the owner of the utility facility which is being relocated under such program or project has entered into, with the State or local government on whose property, easement, or right-of-way such facility is located, a franchise or similar agreement with respect to the use of such property, easement, or right-of-way; and

(C) if the relocation of such facility results in such owner incurring an extraordinary cost in connection with such relocation;

the displacing agency may, in accordance with such regulations as the head of the lead agency may issue, provide to such owner a relocation payment which may not exceed the amount of such extraordinary cost (less any increase in the value of the new utility facility above the value of the old utility facility and less any salvage value derived from the old utility facility).

(2) For purposes of this subsection, the term -

(A) "extraordinary cost in connection with a relocation" means any cost incurred by the owner of a utility facility in connection with relocation of such facility which is determined by the head of the displacing agency, under such regulations as the head of the lead agency shall issue -

(i) to be a non-routine relocation expense;

(ii) to be a cost such owner ordinarily does not include in its annual budget as an expense of operation; and

(iii) to meet such other requirements as the lead agency may prescribe in such regulations; and

(B) "utility facility" means -

(i) any electric, gas, water, steam power, or materials transmission or distribution system;

(ii) any transportation system;

(iii) any communications system (including cable television);

and

(iv) any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system;

located on property which is owned by a State or local government or over which a State or local government has an easement or right-of-way. A utility facility may be publicly, privately, or cooperatively owned.

-SOURCE-

(Pub. L. 91-646, title II, Sec. 202, Jan. 2, 1971, 84 Stat. 1895; Pub. L. 100-17, title IV, Sec. 405, Apr. 2, 1987, 101 Stat. 249.)

-MISC1-

AMENDMENTS

1987 - Subsec. (a). Pub. L. 100-17, Sec. 405(a)(1), inserted introductory provisions and struck out former introductory provisions which read as follows: "Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after

January 2, 1971, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, for - " .

Subsec. (a)(4). Pub. L. 100-17, Sec. 405(a)(2)-(4), added par. (4).

Subsec. (b). Pub. L. 100-17, Sec. 405(b), substituted "an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency" for "a moving expense allowance, determined according to a schedule established by the head of the Federal agency, not to exceed \$300; and a dislocation allowance of \$200".

Subsec. (c). Pub. L. 100-17, Sec. 405(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "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 head of the Federal agency 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 United States, 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 head of such agency 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."

Subsec. (d). Pub. L. 100-17, Sec. 405(d), added subsec. (d).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100-17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100-17, set out as a note under section 4601 of this title.



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