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Changes in Existing State Law Required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

A report submitted under ongoing NCHRP Project 20-6, "Right-of-Way and Legal Problems Arising Out of Highway Programs," for which the Highway Research Board is the agency conducting the Research. The report was prepared by John C. Vance, HRB Counsel for Legal Research, serving under the Special Projects Area of the Board.

THE PROBLEM AND ITS SOLUTION

The passage of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 has rendered it necessary for all state highway departments to review the provisions of existing state law to determine what changes, if any, will be required in existing statutes to effect compliance with the mandatory provisions of the new federal legislation. This paper, by means of a columnar chart identifying the changes made by Title II of the 1970 Act in the provisions of Chapter 5 of the Federal-Aid Highway Act of 1968, establishes a comparison table that should enable all states that have complied with the provisions of said Chapter 5 to determine readily the required change in existing state law in order to effect compliance with and qualify for federal aid under the terms and provisions of Title II of the 1970 Act.

RESEARCH FINDINGS

Research findings are not to be confused with findings of the law. The monograph that follows constitutes the research findings from this study. *Because it is also the full text of the agency report, the above statement concerning loans of uncorrected draft copies of agency reports does not apply.*

I. INTRODUCTION

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 became law on January 2, 1971. Title II of said Act, entitled "Uniform Relocation Assistance," provides uniform relocation assistance treatment for all persons displaced by federal and federally assisted land acquisition programs. Title III of said Act, entitled "Uniform Real Property Acquisition Policy," establishes certain uniform policies and practices to be followed in connection with the acquisition of real property, as distinguished from assistance incident upon such

acquisition. By way of example, it disallows in the valuation of property acquired for a public improvement either enhancement or diminution in value resulting from the impact of the improvement for which the property is taken.1/ Title III thus deals with a subject matter separate and distinct from direct financial assistance for persons displaced as a result of land acquisition programs. Title I of the Act, entitled "General Provisions," is concerned chiefly with the definition of statutory terms. The provisions thereof are not discussed in detail herein, with the exception of the definition of "displaced person." Thus, with the foregoing exception, the provisions of Title I and Title III are not considered in this paper. The scope hereof is limited to the provisions of Title II, relating exclusively to relocation assistance.

The background and legislative history of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is stated in the Report of the Committee on Public Works of the House of Representatives to accompany S.1, 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. . . .
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> 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.

It is evident from the foregoing that the purpose of the Act is both to raise the level of relocation assistance provided under existing federal law and to render such relocation assistance uniform for all persons who are displaced by federal and federally assisted programs.

It is interesting to note that the means chosen to accomplish this two-fold purpose was by way of revision of the terms and provisions of Chapter 5 of the Federal-Aid Highway Act of 1968, relating to relocation assistance for persons displaced by highway construction. Title II, hereinafter sometimes referred to as the "Uniform Relocation Assistance Act," makes certain significant changes in the provisions of Chapter 5, and adds a limited number of new provisions not contained in Chapter 5, but in the main it is no more than a rewrite of Chapter 5. In fact, the identical language of Chapter 5 is repeated frequently throughout the entire Uniform Relocation Assistance Act.

This fact carries significance for state highway departments because, with the exception of one state where a constitutional amendment is required, all states have enacted legislation that has been accepted by the United States Secretary of Transportation as being sufficient to give "sat-

1/ In this connection see *NCHRP Research Results Digest 11*, dated October 1969, entitled "Valuation Changes Resulting from Influence of Public Improvements," which contains a collation and discussion of the cases relating to the allowance or disallowance of enhancement or diminution in value due to the influence of the public improvement for which property is taken, together with suggested legislation paralleling the aforementioned provisions of Title III.

isfactory assurances from the State highway department" of compliance with the provisions of Chapter 5, as required by Sec. 502 of the 1968 Act.2/ It follows that in order to amend existing state law to comply with the provisions of the Uniform Relocation Assistance Act it is necessary only to identify the specific changes made in the provisions of Chapter 5, and to earmark those provisions of the Uniform Relocation Assistance Act that were not included within the terms and scope of Chapter 5. Such changes and new provisions are noted in a comparison table in this paper.

Prior to consideration of the differences between Chapter 5 and the Uniform Relocation Assistance Act, it is to be noted that certain states probably will not be required to make any changes in existing law in order to comply with the *mandatory* provisions of Title II of the 1970 Act. Such mandatory provisions are discussed in detail later herein. States that have enacted legislation that is fully open-ended fall into this category. See, by way of example, Oregon Revised Statutes §366.324, which reads as follows:

> When federal funds are available for payment of direct financial assistance to persons displayed by highway acquisition the state highway commission may match such federal funds to the extent provided by federal law and to provide such direct financial assistance in the instances and on the conditions set forth by federal law and regulations.

State statutes that, similar to the Oregon Statute, unqualifiedly permit the matching of federal funds available for relocation assistance, would appear to satisfy the mandatory provisions of Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as well as the requirements of Chapter 5 of the Federal-Aid Highway Act of 1968.

Certain other open-end type state statutes authorize compliance with the provisions of Chapter 5, of the Federal-Aid Highway Act of 1968, and amendments thereto or changes therein. Thus, North Dakota Century Code §24-01-41.1 provides that the legislature

> . . .assents that highway relocation assistance payments, as defined in Chapter 5 of title 23 of the Federal Aid Highway Act, <u>and such changes or amendments thereof which Congress may hereafter enact</u>, are to be considered a necessary cost in the construction or reconstruction of public highways which are eligible for federal aid funds. The commissioner is authorized and empowered to expend highway funds for the cost of the state's participation in highway relocation assistance payments. (Underscoring supplied.)

It would seem reasonably clear that the legislature intended to authorize all such relocation assistance payments as might be required by existing or future federal law to qualify the state for the receipt of federal-aid highway funds.

However, *quaere* whether a statute that authorizes compliance with the provisions of Chapter 5, but is silent as to amendments thereto or changes therein, suffices to authorize compliance with the provisions of the Uniform Relocation Assistance Act. *Cf.* Arkansas Statutes Annotated §76-554 (1947) which is restricted to authorizing the state highway commission "to perform such acts as may be necessary to provide relocation assistance in accord with the provisions of Chapter 5, Title 23, United States Code, and the rules and regulations promulgated thereunder by the U.S. Secretary of Transportation."

The great majority of the states have not adopted any type of open-end statute. Hence, the question becomes critical in those states as to what changes in statute law enacted to comply with the provisions of Chapter 5 will be necessary to meet and satisfy the requirements of the Uniform Relocation Assistance Act.

State statutes that follow the provisions of Chapter 5 vary rather substantially in format and language. Some statutes follow the provisions of Chapter 5 very closely. Others incorporate the essential requirements of Chapter 5, but do so in general terminology, and in a format that differs from that employed in Chapter 5. Virtually all of such statutes, however, are uniform in making provision for money payments for the acquisition of replacement housing, rental allowances for tenants, moving expense allowances, etc., in the exact same amounts as provided in Chapter 5. Because the amounts of all such payments are increased by the provisions of the Uniform Relocation

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2/ A general discussion of Chapter 5 of the Federal-Aid Highway Act of 1968 is omitted as being unnecessary to this paper. For such discussion and an examination of underlying legal problems and case law appertaining thereto, see *NCHRP Research Results Digest 3*, dated March 1969, entitled "Relocation Assistance Under Chapter Five of the 1968 Federal-Aid Highway Act."

Assistance Act, it is, of course, requisite that existing legislation be amended to reflect the amounts of such increase.

The comparison table gives verbatim the provisions of Title II of the 1970 Act. In an adjoining column the comparable sections of Chapter 5 are noted and the changes, if any, made by Title II are discussed. Provisions of Title II that are new are indicated. In a third heading, entitled "Comments," the changes in state legislation that follow the provisions of Chapter 5 are spelled out, section by section. This over-all method of comparison is intended readily to illustrate the precise amendments that are required in existing state law to bring it into conformity with the Uniform Relocation Assistance Act.

Before setting forth the comparison table, which does not include the provisions of either Title I or Title III of the 1970 Act, it is necessary to compare the definition of "displaced person," as contained in Sec. 511(3) of Chapter 5 of the 1968 Act.

Sec. 101(6) of Title I of the 1970 Act defines "displaced persons" as follows:

> The term "displaced person" means any person who, on or after the effective date of this Act, 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, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 202(a) and (b) and 205 of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

Sec. 511(3) of Chapter 5 of the 1968 Act defines "displaced person" as follows:

> The term "displaced person" means any person who moves from real property on or after the effective date of this chapter as a result of the acquisition or reasonable expectation of acquisition of such real property, which is subsequently acquired, in whole or in part, for a Federal-aid highway, or as the result of the acquisition for a Federal-aid highway of other real property on which such person conducts a business or farm operation.

Sec. 511(3) relates to the acquisition of property for a federal-aid highway, whereas Sec. 101(6) relates, as do all other terms of the Uniform Relocation Assistance Act, to the acquisition of property for any federally aided project. Sec. 101(6) deletes the phrase "or reasonable expectation of acquisition," appearing in Sec. 511(3), and substitutes in lieu thereof the language "as a result of the acquisition of such real property. . . or as the result of the written order of the acquiring agency to vacate real property," including property on which a displaced person conducts a business or farm operation.

Although the phrase "reasonable expectation of acquisition" is probably of broader import than "as the result of the written order of the acquiring agency to vacate real property," it would seem advisable to amend a definition of "displaced person" modelled on the 1968 Act to conform precisely with the language of the 1970 Act. Such amendment should include the phrase "or moves his personal property from real property," which did not appear in the 1968 Act.

Title I makes certain other changes in the definitions contained in the 1968 Act, all of which are readily apparent and do not require detailed discussion herein. Existing state law that follows the definitions set forth in the 1968 Act should be amended so as to adopt verbatim or conform precisely with the definitions set forth in Title I of the 1970 Act.

The comparison table gives the major differences between Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Chapter 5 of the Federal-Aid Highway Act of 1968.

It is emphasized that the changes in existing legislation discussed under "Comments" relate solely to changes necessary to enable a state highway department to comply with the requirements of the 1970 Act. The enactment of legislation that would enable all state agencies to comply with the 1970 Act is discussed at the conclusion of this paper.

1970 ACT (TITLE II)

MOVING AND RELATED EXPENSES

Sec. 202. (a) 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 the effective date of this Act, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, 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 head of the agency; 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 head of the Federal agency, 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 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.

1968 ACT (CHAPTER 5) COMPARED

Moving and Related Expenses.--The provisions of Chapter 5 of the Federal-Aid Highway Act of 1968 pertaining to moving and related expenses are contained in Sec. 505 thereof. These provisions are similar to the terms of Sec. 202 of Title II of the 1970 Act, relating to the same subject matter. However, certain significant changes are made by Sec. 202 of Title II of the 1970 Act. These changes are as follows:

(1) Sec. 202(a)(2) of Title II authorizes the payment not provided for in Sec. 505 of Chapter 5, as follows: "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."

(2) Sec. 202(a)(3) of Title II authorizes the payment not provided for in Sec. 505 of Chapter 5, as follows: "actual reasonable expenses in searching for a replacement business or farm."

(3) Sec. 505(b)(1) of Chapter 5 authorizes a moving expense allowance not to exceed $200. Sec. 202(b) of Title II authorizes a moving expense allowance not to exceed $300. Sec. 505(b)(2) of Chapter 5 authorizes a dislocation allowance in the amount of $100. Sec. 202(b) of Title II authorizes a dislocation allowance in the amount of $200.

(4) Sec. 505(c) of Chapter 5 authorizes that a person dislocated from a business or farm operation 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." Sec. 202(c) of Title II changes such provision to authorize "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."

(5) The definition of "average annual net earnings" contained in Sec. 505(c) of Chapter 5 is the same as the definition of "average annual net earnings" contained in Sec. 202(c) of Title II, except that Sec. 202(c) adds the new qualifying phrase "or during such other period as the head of such agency determines to be more equitable for establishing such earnings."

COMMENTS

Moving and Related Expenses.--In order to conform the terms of **state statutes following** the provisions of Sec. 505 of Chapter 5, pertaining to the payment of moving expense and dislocation allowances, to the provisions of Sec. 202 of Title II, relating to the same subject matter, the following changes are required:

(1) To meet the new requirements of Sec. 202(a)(2) of Title II, state statutes following the provisions of Sec. 505 of Chapter 5 must be amended to make provision for the payment of "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 acquiring agency.

(2) To meet the new requirements of Sec. 202(a)(3) of Title II, existing state statutes must be amended to make provision for the payment of "actual reasonable expenses in searching for a replacement business or farm."

(3) To meet the requirements of Sec. 202(b) of Title II, the maximum amount of moving expense allowance must be increased from $200, as provided in Sec. 505(b)(1) of Chapter 5, to $300, and the amount of dislocation allowance from $100, as provided in Sec. 505(b)(2), to $200.

(4) To meet the requirements of Sec. 202(c) of Title II, relating to payments to persons displaced from a place of business or a farm operation, existing state law must be amended to provide for "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."

(5) To meet the requirements of Sec. 202(c) of Title II, the definition of "average annual net earnings" appearing in existing state law must be amended to include the phrase "or during such other period as the head of [the acquiring agency] determines to be more equitable for establishing such earnings."

1970 ACT (TITLE II)

REPLACEMENT HOUSING FOR HOMEOWNER

Sec. 203. (a) (1) In addition to payments otherwise authorized by this title, the head of the Federal agency 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 Federal agency, 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 head of the Federal agency 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 Federal agency 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 prepaid 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 Federal agency final payment of all costs of the acquired dwell-

1968 ACT (CHAPTER 5) COMPARED

Replacement Housing for Homeowner.--The provisions of Chapter 5 of the Federal-Aid Highway Act of 1968 relating to payments for replacement housing for homeowners are contained in Sec. 506(a) thereof. Although such provisions are basically similar to the requirements of Sec. 203 of Title II, relating to the same subject matter, certain significant changes are made by the provisions of Sec. 203 of Title II. Such changes are as follows:

(1) Sec. 506(a) of Chapter 5 authorizes payment for the acquisition of replacement housing to the owner of real property "which is improved by a single-, two-, or three-family dwelling." Sec. 203(a)(1) authorizes payment to a person "who is displaced from a dwelling." Thus, Sec. 203(a)(1) deletes the requirement that the dwelling be a "single-, two-, or three-family" dwelling.

(2) Sec. 506(a) of Chapter 5 authorizes a payment "not to exceed $5,000." Sec. 203(a)(1) of Title II authorizes a payment "not in excess of $15,000." Thus, the amount of the additive is increased by $10,000.

(3) Sec. 506(a) of Chapter 5 restricts payment to persons who have owned and occupied the acquired dwelling for "not less than one year prior to the initiation of negotiations for the acquisition." The required period of ownership and occupancy is reduced by the terms of Sec. 203(a)(1) of Title II to "not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition."

(4) Sec. 203(a)(1)(B) of Title II contains a new provision for the payment to a displaced person of the "amount, if any, which will compensate such displaced person for any increased costs which such person is required to pay for financing the acquisition of any. . .comparable replacement dwelling." Such payment shall be made only if the acquired dwelling was encumbered by a bona fide mortgage that was a valid lien on the property for not less than 180 days prior to the initiation of negotiations for acquisition. The amount of such payment 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 that 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 wherein the replacement dwelling is located.

Sec. 203(a)(1)(B) of Title II, relating to the payment of increased interest costs, has no counterpart in Chapter 5 and is entirely new.

COMMENTS

Replacement Housing for Homeowner.--In order to conform the terms of state statutes following the provisions of both Sec. 506(a) of Chapter 5, pertaining to payments for replacement housing for homeowners, and the provisions of Sec. 507(a)(1)(2)(3) of Chapter 5, pertaining to expenses incidental to the transfer of property, to the provisions of Sec. 203 of Title II, relating to the same subject matters, the following changes are required:

(1) To meet the requirements of Sec. 203(a)(1) of Title II the words "single-, two-, or three-family," as used to qualify the word "dwelling," must be deleted, and the word "dwelling" (or its equivalent) used without qualification.

(2) To meet the requirements of Sec. 203(a)(1) of Title II the upper limit of payment for the acquisition of a replacement dwelling must be increased from $5,000 (as provided in Chapter 5) to $15,000.

(3) To meet the requirements of Sec. 203(a)(1) of Title II the period of required ownership and occupancy must be reduced from one year prior to the initiation of negotiations for acquisition, to 180 days prior to the initiation of negotiations for acquisition.

(4) Because Sec. 203(a)(1)(B) of Title II, relating to the payment of increased interest required by the terms of a new mortgage on a replacement dwelling, has no counterpart in Chapter 5, language to authorize such increased interest cost payment must be added to the terms of existing state law. The language employed in Sec. 203(a)(1)(B) is clear and succinct, and it is suggested that the terms thereof be followed closely.

(5) Sec. 203 of Title II does not provide for the payment of penalty costs for prepayment of a mortgage [as authorized by Sec. 507(a)(2) of Chapter 5], or the pro rata share of taxes allocable to the period subsequent to the vesting of title to the acquired property in the state, or the effective date of possession, whichever is earlier [as provided in Sec. 507(a)(3) of Chapter 5]. Such payments are provided for, however, in Sec. 303 of Title III of the 1970 Act.

(6) In lieu of the payments mentioned in Paragraph (5) above, the provisions of existing state law should be amended to follow the new provisions of Sec. 203(a)(1)(C), of Title II relating to payment of expenses incidental to the transfer of property, and to authorize the payments provided for in Sec. 203(a)(1)(C), as follows: "Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other costs incident to the purchase of the replacement dwelling, but not including prepaid expenses."

1970 ACT (TITLE II)	1968 ACT (CHAPTER 5) COMPARED	COMMENTS
ing, or on the date on which he moves from the acquired dwelling, whichever is the later date. (b) The head of any Federal agency may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, which mortgage is eligible for insurance under any Federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage.	(5) Chapter 5 in Sec. 507(a)(2) thereof contains a provision for the payment of penalty costs for prepayment of a mortgage on an acquired dwelling; and in Sec. 507(a)(3) of Chapter 5 provision is made for payment of the pro rata share of real property taxes paid that are allocable to the period subsequent to the vesting of title to the acquired property in the state, or the effective date of possession by the state, whichever is earlier. Neither of such payments is authorized by the provisions of Sec. 203, or any other section of Title II. (6) Sec. 203(a)(1)(C) of Title II authorizes the payment of reasonable expenses for "evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses." The comparable provisions of Chapter 5 are set forth in Sec. 507(a)(1), which authorizes payment of "recording fees, transfer taxes, and similar expenses incidental to conveying such property." It is to be noted that Sec. 203(a)(1)(C) does not make provision for the payment of "transfer taxes, and similar expenses incidental to conveying. . .property," but contains the authorization that was not included in Sec. 507(a)(1) of payment for "evidence of title" and "closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses." (7) Sec. 203(a)(1)(C)(2) of Title II provides that the additional payment shall be made only to a displaced person who purchases and occupies a dwelling within one year from the date on which he receives final payment of all costs of the acquired dwelling, or one year from the date on which he moves from the acquired dwelling, whichever is the later. The provisions of Chapter 5 comparable to Sec. 203(a)(1)(C)(2) of Title II are contained in Sec. 506(a), which specifies that the additional payment "shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which he is required to move from the dwelling acquired for the project." Thus, Sec. 203(a)(1)(C)(2) of Title II differs from Sec. 506(a) of Chapter 5 in that Sec. 203(a)(1)(C)(2) includes the new cut-off date of one year from the final payment of costs of the acquired dwelling, which operates alternatively to one year from the date of removal, whichever is the later. Sec. 203(a)(1)(C)(2) also deletes the provision of Sec. 506(a) that the displaced person be "required" to move from the acquired dwelling. (8) Sec. 203(a)(1)(C)(2)(b) of Title II provides that the head of a federal agency, on application by a mortgagee, may insure any mortgage, including advances during construction, on a replacement dwelling executed by a displaced person acquiring such dwelling, which mortgage is eligible for insurance under any federal law administered by such agency, notwithstanding any requirements under such law relating to the age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for such insurance prior to the execution of the mortgage. Sec. 203(a)(1)(C)(2)(b) of Title II, relating to mortgage insurance, has no counterpart in Chapter 5, and is entirely new.	(7) In order to meet the requirements of Sec. 203(a)(1)(C)(2) of Title II relating to additional payments, provisions of existing state law following the requirements of Sec. 506(a) of Chapter 5 should be amended to provide that: "The additional payment. . .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 [acquiring agency] 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." (8) Sec. 203(a)(1)(C)(2)(b) of Title II, relating to mortgage insurance, has no counterpart in Chapter 5. As is pointed out later herein in connection with discussion of Sec. 210 of Title II, Sec. 203 of Title II is a mandatory section; i.e., "satisfactory assurances" of compliance therewith must be given in order that a state be eligible for the receipt of federal-aid funds. Thus, the provisions of Sec. 203 relating to mortgage insurance are clearly within the scope of a mandatory section. Notwithstanding this fact, at the time of writing this paper, it seems unlikely that the provisions of Sec. 203(a)(1)(C)(2)(b) relating to mortgage insurance will be interpreted by the Federal Highway Administration to apply to state highway departments. Although some federal agencies have clear authority to insure mortgages, a measure of doubt exists as to whether the Federal Highway Administration has such authority. Few, if any, state highway departments presently have such authority. Although the matter is not settled at the time of this writing, either by administrative ruling or judicial interpretation, it seems at the present time unlikely that the provisions of Sec. 203(a)(1)(C)(2)(b) will be construed by the Federal Highway Administration to apply to state highway departments. It is not intended hereby to suggest that the provisions of Sec. 203(a)(1)(C)(2)(b) are to be construed to have no application to state agencies already empowered under state law to insure mortgages. It is to be remembered that Title II of the 1970 Act applies to all state agencies acquiring property for a federally assisted project.
REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS Sec. 204. In addition to amounts otherwise authorized by this title, the head of the Federal agency 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 $4,000 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.	*Replacement Housing for Tenants and Certain Others.*--The provisions of Chapter 5 of the Federal-Aid Highway Act of 1968 relating to replacement housing for tenants and certain others are contained in Sec. 506(b). Although the provisions of Sec. 506(b) of Chapter 5 are similar to the provisions of Sec. 204(1)(2) of Title II, relating to the same subject matter, certain significant changes are made by the provisions of Sec. 204(1)(2) of Title II. Sec. 506(b) of Chapter 5 provides, in part, that the amount of payment "not to exceed $1,500, shall be the amount which is necessary to enable such person to lease or rent for a period not to exceed 2 years, or to make the down payment 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." The changes made in the provisions of Sec. 506(b) of Chapter 5 by the provisions of Sec. 204(1)(2) of Title II are as follows: (1) The term of the authorized rental period is increased by the provisions of Sec. 204(1) of Title II from two years, as provided in Sec. 506(b) of Chapter 5, to "a period not to exceed four years." (2) The amount of the authorized rental payment is increased by the provisions of Sec. 204(1) of Title II from $1,500, as provided in Sec. 506(b) of Chapter 5, to an amount "not to exceed $4,000." (3) Although Sec. 508(a)(2) of Chapter 5, relating to the furnishing of relocation advisory assistance, requires that all replacement housing be "reasonable accessible to. . .places of employment," this provision does not specifically appear in Sec. 506(b) of Chapter 5, relating to rental property. Sec. 204(1) of Title II, relating to rental replacement housing, includes such provision therein, and specifically requires that replacement rental housing be "reasonably accessible to. . .place of employment." (4) The maximum amount of downpayment for the purchase of replacement housing authorized by Sec. 506(b) of Chapter 5 is $1,500. This amount is increased by the provisions of Sec. 204(2) to $4,000, in the language and subject to the proviso as follows: "the amount necessary . . .to make a downpayment. . .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."	*Replacement Housing for Tenants and Certain Others.*--In order to conform the provisions of Sec. 506(b) of Chapter 5, pertaining to replacement housing for tenants and certain others, to the provisions of Sec. 204(1)(2) of Title II, relating to the same subject matter, the following changes are required: (1) To meet the requirements of Sec. 204(1) of Title II the term of the authorized rental period must be increased from two years, as provided in Sec. 506(b) of Chapter 5, to "a period not to exceed four years." (2) To meet the requirements of Sec. 204(1) of Title II the maximum amount of the authorized rental must be increased from $1,500, as provided in Sec. 506(b) of Chapter 5, to an amount "not to exceed $4,000." (3) To meet the requirements of Sec. 204(1) of Title II the rental dwelling should be described in terms 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, and reasonably accessible to his place of employment." (4) To meet the requirements of Sec. 204(2) of Title II the maximum amount of authorized downpayment for the acquisition of a replacement dwelling should be increased from $1,500, as provided in Sec. 506(b) of Chapter 5, to $4,000, subject to the proviso as follows: "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."

1970 ACT (TITLE II) | **1968 ACT (CHAPTER 5) COMPARED** | **COMMENTS**

RELOCATION ASSISTANCE ADVISORY SERVICES

1970 ACT (TITLE II)

Sec. 205. (a) 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 the effective date of this section, the head of such agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection (c) of this section. If such agency head determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.

(b) Federal agencies administering programs which may be of assistance to displaced persons covered by this Act shall cooperate to the maximum extent feasible with the Federal or State agency causing the displacement to assure that such displaced persons receive the maximum assistance available to them.

(c) Each relocation assistance advisory program required by subsection (a) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

(1) determine the need, if any, of displaced persons, for relocation assistance;

(2) provide current and continuing information on the availability, prices, and rentals, of comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(3) assure that, within a reasonable period of time, prior to displacement there will be available 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, as defined by such Federal agency head, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived;

(4) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons; and

(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(d) The heads of Federal agencies shall coordinate relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

1968 ACT (CHAPTER 5) COMPARED

Relocation Assistance Advisory Services.—The provisions of Sec. 508 of Chapter 5, relating to the furnishing of relocation assistance advisory services, are similar to the provisions of Sec. 205 of Title II, relating to the same subject matter. However, certain significant changes are made by the provisions of Sec. 205 of Title II. These changes are as follows:

(1) Sec. 205(a) of Title II contains a provision relating to relocation advisory services for persons occupying property adjacent to the acquired property, which did not appear in Chapter 5. Such provision reads as follows: "If such agency head determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program."

(2) Sec. 205(c)(2) of Title II contains a provision relating to supplying information in respect to available comparable replacement housing, which did not appear in Chapter 5. Such provision requires that the relocation advisory assistance program shall "provide current and continuing information on the availability, prices, and rentals of comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses."

(3) The provisions of Sec. 508(a)(4) of Chapter 5, relating to the furnishing of information in respect to governmental housing programs, small business disaster loan programs, etc. are broadened by the terms of Sec. 205(c)(5) of Title II to require that the relocation assistance advisory program "supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons."

(4) Sec. 205(c)(6) of Title II contains a catch-all not included in Chapter 5, which requires that the relocation advisory assistance program "provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation."

(5) Sec. 205(d) of Title II contains a new provision not appearing in Sec. 508 of Chapter 5, which requires that the "heads of Federal agencies shall coordinate relocation activities with project work, and other planned or proposed governmental activities in the community or nearby areas which may affect the carrying out of relocation assistance programs."

COMMENTS

Relocation Assistance Advisory Services.—In order to conform the provisions of Sec. 508 of Chapter 5, relating to the furnishing of relocation assistance advisory services, to the provisions of Sec. 205 of Title II, relating to the same subject matter, the following changes are required;

(1) To meet the requirements of Sec. 205(a) of Title II, a new provision must be added reading as follows: "If the head [of the acquiring agency] determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program."

(2) To meet the requirements of Sec. 205(c)(2) of Title II, a new provision must be added requiring that the relocation assistance advisory program "provide current and continuing information on the availability, prices, and rentals, of comparable, decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses."

(3) To meet the requirements of Sec. 205(c)(5) of Title II existing statute law must be amended to require that the relocation assistance advisory program "supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons."

(4) To meet the requirements of Sec. 205(c)(6) of Title II a new provision must be added to require that the relocation assistance advisory program "provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation."

(5) To meet the requirements of Sec. 205(d) of Title II a new provision must be added to require that the head of the acquiring agency "coordinate relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs."

HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

1970 ACT (TITLE II)

Sec. 206. (a) If a Federal project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Federal agency determines that such housing cannot otherwise be made available he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project.

(b) No person shall be required to move from his dwelling on or after the effective date of this title, on account of any Federal project, unless the Federal agency head is satisfied that replacement housing, in accordance with section 205(c)(3), is available to such person.

1968 ACT (CHAPTER 5) COMPARED

Housing Replacement by Federal Agency as Last Resort.—The provisions of Sec. 206(a) of Title II that authorize the head of a federal agency to "take such action as is necessary or appropriate" to provide replacement housing in the event he determines that the "project cannot proceed to actual construction because comparable sale or rental housing is not available" are new and have no counterpart in Chapter 5. However, as is seen in connection with the discussion later herein of Sec. 210 of Title II, the provisions of Sec. 206(a) are not mandatory, and hence a state is not required to comply therewith in order to be eligible for the receipt of federal funds.

Sec. 206(b) of Title II contains a new provision specifying that no person "shall be required to move from his dwelling on or after the effective date of this title, on account of any Federal project, unless the Federal agency head is satisfied that replacement housing, in accordance with section 205(c)(3), is available to such person." Sec. 206(b) is not a mandatory provision.

COMMENTS

Housing Replacement by Federal Agency as a Last Resort.—If a state highway department wishes to comply with the provisions of Sec. 206(a) of Title II, it is suggested that language following the provisions of Sec. 206(a) might be adopted, as follows: "Whenever a federal-aid highway project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the state highway department determines that such housing cannot otherwise be made available, the state highway department may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project."

STATE REQUIRED TO FURNISH REAL PROPERTY INCIDENT TO FEDERAL ASSISTANCE (LOCAL COOPERATION)

1970 ACT (TITLE II)

Sec. 207. Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by sections 210 and 305 of this Act. Such State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, such Federal agency shall pay 100 per centum of the first $25,000 of the cost of providing such payments and assistance.

1968 ACT (CHAPTER 5) COMPARED

State Required to Furnish Real Property Incident to Federal Assistance.—Chapter 5 does not contain any comparable provision.

COMMENTS

State Required to Furnish Real Property Incident to Federal Assistance.—No state legislation is required.

DIFFERENCES BETWEEN 1970 ACT (TITLE II) AND 1968 ACT (CHAPTER 5) (Continued)

1970 ACT (TITLE II)	1968 ACT (CHAPTER 5) COMPARED	COMMENTS
STATE ACTING AS AGENT FOR FEDERAL PROGRAM Sec. 208. Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this Act, be deemed an acquisition by the Federal agency having authority over such program or project.	*State Acting as Agent for Federal Program.*—The provision of Chapter 5 comparable to Sec. 208 of Title II is found in Sec. 509 of Chapter 5.	*State Acting as Agent for Federal Program.*—No state legislation is required.
PUBLIC WORKS PROGRAMS AND PROJECTS OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY Sec. 209. Whenever real property is acquired by the government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 210 and 211 of this title, and such acquisition will result in the displacement of any person on or after the effective date of this Act, the Commissioner of the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a Federal agency by this Act. Whenever real property is acquired for such a program or project on or after such effective date, such Commissioner or Authority, as the case may be, shall make all payments and meet all requirements prescribed for a Federal agency by title III of this Act.	*Public Works Programs and Projects of the Government of the District of Columbia and of the Washington Metropolitan Area Transit Authority.*—Chapter 5 contains no provision comparable to Sec. 209 of Title II.	*Public Works Programs and Projects of the Government of the District of Columbia and of the Washington Metropolitan Area Transit Authority.*—No state legislation is required.
REQUIREMENTS FOR RELOCATION PAYMENTS AND ASSISTANCE OF FEDERALLY ASSISTED PROGRAM: ASSURANCES OF AVAILABILITY OF HOUSING Sec. 210. Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of this title, unless he receives satisfactory assurances from such State agency that — (1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 202, 203, and 204 of this title; (2) relocation assistance programs offering the services described in section 205 shall be provided to such displaced persons; (3) within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with section 205 (c)(3).	*Requirements for Relocation Payments and Assistance of Federally Assisted Program: Assurances of Availability of Housing.*--Sec. 210 of Title II is the key section that specifies which provisions of Title II are mandatory. Sec. 210 provides that "the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency . . . unless he receives satisfactory assurances from such State agency that— "(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons as are required to be provided by a Federal agency under sections 202 [Moving and Related Expenses], 203 [Replacement Housing for Homeowner], and 204 [Replacement Housing for Tenants and Certain Others] of this title; "(2) relocation assistance programs offering the services described in section 205 [Relocation Assistance Advisory Services] shall be provided to such displaced persons; "(3) within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with section 205(c)(3)." The provisions of Sec. 205(c)(3) are virtually identical with those of Sec. 508(a)(2) of Chapter 5, the only differences being that: (a) Sec. 205(c) drops the language "to the extent that can reasonably be accomplished," appearing in Sec. 508(a)(2); and (b) Sec. 205(c) adds the new language not appearing in Sec. 508(a)(2), "except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived."	*Requirements for Relocation Payments and Assistance of Federally Assisted Program: Assurances of Availability of Housing.*—The changes in the comparable sections of Chapter 5 made by the mandatory sections of Title II, i.e., Sections 202, 203, 204, and 205, are identified and discussed previously herein. The caveat is here added that it might be advisable to delete from any state statute that adopts the literal language of Sec. 508(a)(2) of Chapter 5, the phrase "to the extent that can reasonably be accomplished."
FEDERAL SHARE OF COSTS Sec. 211. (a) The cost to a State agency of providing payments and assistance pursuant to sections 206, 210, 215, and 305, shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution the Federal agency shall pay the full amount of the first $25,000 of the cost to a State agency of providing payments and assistance for a displaced person under sections 206, 210, 215, and 305, on account of any acquisition or displacement occurring prior to July 1, 1972, and in any case where such Federal financial assistance is by loan, the Federal agency shall loan such State agency the full amount of the first $25,000 of such cost. (b) No payment or assistance under section 210 or 305 shall be required or included as a program or project cost under this section, if the displaced person receives a payment required by the State law of eminent domain which is determined by such Federal agency head to have substantially the same purpose and effect as such payment under this section, and to be part of the cost of the program or project for which Federal financial assistance is available. (c) Any grant to, or contract or agreement with, a State agency executed before the effective date of this title, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of this Act, shall be amended to include the cost of providing payments and services under sections 210 and 305. If the head of a Federal agency determines that it is necessary for the expeditious completion of a program or project he may advance to the State agency the Fed[illegible] hare of the cost of any payments or assistance by such State agency p[illegible] to sections 206, 210, 215, and 305.	*Federal Share of Costs.*—Provisions of Chapter 5 that are comparable to certain of the provisions of Sec. 211(a) of Title II are found in Secs. 504(a)(b), and 506(a).	*Federal Share of Costs.*--No state legislation is required. The major difference between the provisions of Title II and Chapter 5 relating to the federal share of costs is that Section 211(a) of Title II provides for 100 percent federal financing of the first $25,000 of the costs of construction or rehabilitation of replacement housing, authorized by Sec. 206(a) of Title II, and the first $25,000 of the loans authorized by Sec. 215 of Title II for planning and other expenses preliminary to the construction or rehabilitation of replacement housing, upon submission of required documentation.

1970 ACT (TITLE II)	1968 ACT (CHAPTER 5) COMPARED	COMMENTS
ADMINISTRATION—RELOCATION ASSISTANCE IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE Sec. 212. 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 sections 206, 210, and 215 of this title, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this title through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in section 206, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.	*Administration--Relocation Assistance in Programs Receiving Federal Financial Assistance.*—The provisions of Chapter 5 comparable to those contained in Sec. 212 of Title II are contained in Sec. 503 of Chapter 5. The changes made by Sec. 212 are the addition of the new language as follows: (a) "a State agency may enter into contracts with any individual, firm, association, or corporation for [relocation assistance] services;" and (b) the "State agency shall, in carrying out. . .relocation assistance activities. . .whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities."	*Administration--Relocation Assistance in Programs Receiving Federal Financial Assistance.*--Sec. 212 of Title II is not a mandatory section. In the event of compliance therewith, existing statutes following the provisions of Sec. 303 of Chapter 5 should be amended to provide substantially as follows: (1) "The state highway department may enter into contracts with any individual, firm, association, or corporation for services in connection with relocation assistance programs."; (2) "The state highway department shall in carrying out relocation assistance activities utilize, whenever practicable, the services of state or local housing agencies, or other agencies have experience in the administration or conduct of similar housing assistance activities."
REGULATIONS AND PROCEDURES Sec. 213. (a) In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Federal agencies shall consult together on the establishment of regulations and procedures for the implementation of such programs. (b) The head of each Federal agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure- (1) that the payments and assistance authorized by this Act shall be administered in a manner which is fair and reasonable, and as uniform as practicable; (2) that a displaced person who makes proper application for a payment authorized for such person by this title shall be paid promptly after a move or, in hardship cases, be paid in advance; and (3) that any 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 head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency. (c) The head of each Federal agency may prescribe such other regulations and procedures, consistent with the provisions of this Act, as he deems necessary or appropriate to carry out this Act.	*Regulations and Procedures.*—The provisions of Sec. 213 of Title II are virtually identical with those contained in Sec. 510 of Chapter 5.	*Regulations and Procedures.*--No state legislation is required.
ANNUAL REPORT Sec. 214. The head of each Federal agency shall prepare and submit an annual report to the President on the activities of such agency with respect to the programs and policies established or authorized by this Act, and the President shall submit such reports to the Congress not later than January 15 of each year, beginning January 15, 1972, and ending January 15, 1975, together with his comments or recommendations. Such reports shall give special attention to: (1) the effectiveness of the provisions of this Act assuring the availability of comparable replacement housing, which is decent, safe, and sanitary, for displaced homeowners and tenants; (2) actions taken by the agency to achieve the objectives of the policies of Congress, declared in this Act, to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by, or having real property taken for, Federal or federally assisted programs; (3) the views of the Federal agency head on the progress made to achieve such objectives in the various programs conducted or administered by such agency, and among the Federal agencies; (4) any indicated effects of such programs and policies on the public; and (5) any recommendations he may have for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws and regulations.	*Annual Report.*--Chapter 5 contains no fully comparable provision.	*Annual Report.*--No state legislation is required.
PLANNING AND OTHER PRELIMINARY EXPENSES FOR ADDITIONAL HOUSING Sec. 215. In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any Federal or Federal financially assisted project, the head of the Federal agency administering such project is authorized to make loans as a part of the cost of any such project, or to approve loans as a part of the cost of any such project receiving Federal financial assistance, to nonprofit, limited dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing, prior to the availability of	*Planning and Other Preliminary Expenses for Additional Housing.*--Sec. 215 of Title II, which has no counterpart in Chapter 5, is designed to supplement the provisions of Sec. 206(a) of Title II, relating to the construction or rehabilitation of replacement housing. Sec. 215 establishes a loan program to assist in obtaining insured mortgage financing and meeting costs of planning and other preliminary expenses prior to the construction or rehabilitation of replacement housing.	*Planning and Other Preliminary Expenses for Additional Housing.*--The loan program provided for in Sec. 215 of Title II is of force and effect only in connection with carrying out the construction or rehabilitation of replacement housing, authorized by Sec. 206(a) of Title II. Sec. 215, like Sec. 206(a), is not mandatory.

1970 ACT (TITLE II)	1968 ACT (CHAPTER 5) COMPARED	COMMENTS
such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of such Federal agency. All other loans shall be without interest. Such Federal agency head shall require repayment of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sum shall be returned to the Treasury and credited to miscellaneous receipts.		
PAYMENTS NOT TO BE CONSIDERED AS INCOME Sec. 216. No payment received under this title shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.	*Payments Not to Be Considered as Income.*--The provisions of Sec. 216 of Title II are identical with those of Sec. 507(b) of Chapter 5.	*Payments Not to Be Considered as Income.*--No state legislation is required.
DISPLACEMENT BY CODE ENFORCEMENT, REHABILITATION, AND DEMOLITION PROGRAMS RECEIVING FEDERAL ASSISTANCE Sec. 217. A person who moves or discontinues his business, or moves other personal property, or moves from his dwelling on or after the effective date of this Act, as a direct result of any project or program which receives Federal financial assistance under title I of the Housing Act of 1949, as amended, or as a result of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall, for the purposes of this title, be deemed to have been displaced as the result of the acquisition of real property.	*Displacement by Code Enforcement, Rehabilitation, and Demolition Programs Receiving Federal Assistance.*--Chapter 5 contains no comparable provision.	*Displacement by Code Enforcement, Rehabilitation, and Demolition Programs Receiving Federal Assistance.*--No state legislation is required.
TRANSFERS OF SURPLUS PROPERTY Sec. 218. The Administrator of General Services is authorized to transfer to a State agency for the purpose of providing replacement housing required by this title, any real property surplus to the needs of the United States within the meaning of the Federal Property and Administrative Services Act of 1949, as amended. Such transfer shall be subject to such terms and conditions as the Administrator determines necessary to protect the interests of the United States and may be made without monetary consideration, except that such State agency shall pay to the United States all amounts received by such agency from any sale, lease, or other disposition of such property for such housing.	*Transfers of Surplus Property.*--Chapter 5 contains no comparable provision.	*Transfers of Surplus Property.*--No state legislation is required.
DISPLACEMENT BY A SPECIFIC PROGRAM Sec. 219. Notwithstanding any other provision of this title, a person -- (1) who moves or discontinues his business, moves other personal property, or moves from his dwelling on or after January 1, 1969, and before the 90th day after the date of enactment of this Act as the result of the contemplated demolition of structures or the construction of improvements on real property acquired, in whole or in part, by a Federal agency within the area in New York, New York, bounded by Lexington and Third Avenues and 31st and 32nd Streets; and (2) who has lived on, or conducted a business on, such real property for at least one year prior to the date of enactment of this Act; may be considered a displaced person for purposes of sections 202(a) and (b), 204, and 205 of this title, by the head of the agency acquiring the real property if -- (A) the head of the agency determines that such person has suffered undue hardship as the result of displacement from the real property; and (B) the Federal Government acquired and held such property for at least five years prior to the date of enactment of this Act.	*Displacement by a Specific Program.*--Chapter 5 contains no comparable provision.	*Displacement by a Specific Program.*--No state legislation is required.
REPEALS Sec. 220. (a) The following laws and parts of laws are hereby repealed: (1) The Act entitled "An Act to authorize the Secretary of the Interior to reimburse owners of lands required for development under his	*Repeals.*--Chapter 5 is repealed by Sec. 220(a)(10), effective as of the date prescribed in Sec. 221(a)(c).	

1970 ACT (TITLE II)	1968 ACT (CHAPTER 5) COMPARED	COMMENTS
jurisdiction for their moving expenses, and for other purposes," approved May 29, 1958 (43 U.S.C. 1231-1234). (2) Paragraph 14 of section 203(b) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473). (3) Section 2680 of title 10, United States Code. (4) Section 7(b) of the Urban Mass Transportation Act of 1965 (49 U.S.C. 1606(b)). (5) Section 114 of the Housing Act of 1949 (42 U.S.C. 1465). (6) Paragraphs (7)(b)(iii) and (8) of section 15 of the United States Housing Act of 1937 (42 U.S.C. 1415, 1415(8)), except the first sentence of paragraph (8). (7) Section 2 of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to pay relocation costs made necessary by actions of the District of Columbia government, and for other purposes," approved October 6, 1964 (78 Stat. 1004; Public Law 88-629; D.C. Code 5-729). (8) Section 404 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3074). (9) Sections 107 (b) and (c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3307). (10) Chapter 5 of title 23, United States Code. (11) Sections 32 and 33 of the Federal-Aid Highway Act of 1968 (Public Law 90-495). (b) Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Acts or portions thereof under subsection (a) of this section.		
EFFECTIVE DATE Sec. 221. (a) Except as provided in subsections (b) and (c) of this section, this Act and the amendments made by this Act shall take effect on the date of its enactment. (b) Until July 1, 1972, sections 210 and 305 shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections shall be completely applicable to all States. (c) The repeals made by paragraphs (4), (5), (6), (8), (9), (10), (11), and (12) of section 220(a) of this title and section 306 of title III shall not apply to any State so long as sections 210 and 305 are not applicable in such State.	*Effective Date.*—Pursuant to the provisions of Sec. 221(b) of Title II, the mandatory sections of Title II are made applicable to a state prior to July 1, 1972, only to the extent that a state is able under its laws to comply therewith. After July 1, 1972, the mandatory provisions of Title II are applicable to all states. Sec. 221(c) of Title II specifies that the repeal of Chapter 5 of the Federal-Aid Highway Act of 1968 made by Sec. 220(a)(10) shall not be effective as to any state so long as the mandatory provisions of Title II are not applicable to such state.	

The majority of the states have enacted legislation that follows the provisions of Chapter 5 of the 1968 Act either closely or in general terms, but, in any event, legislation that incorporates the essential requirements of Chapter 5. Such statutes can in general be expeditiously amended to conform to the requirements of Title II of the 1970 Act, or the format thereof can be used as the framework for a new bill incorporating the changes required by the provisions of Title II. The necessary changes are identified in the comparison table, and the same may be incorporated within the structure of existing statute law with relative ease and reasonable dispatch. Hence, this paper does not undertake to set forth a model bill based on the provisions of Title II. 3/

This paper is, of course, pointed to changes required by the Uniform Relocation Assistance Act that must be made in existing state law in order to enable state highway departments to comply with the requirements thereof. Because the 1970 Act applies to all state agencies other than the highway department participating in federally assisted land acquisition programs, it might be well, in the rephrasing of existing state statutes enacted to comply with the provisions of Chapter 5, to render the same applicable to all state agencies, and thereby effect compliance on behalf of all state agencies required to conform to the provisions of the 1970 Uniform Relocation Assistance Act.

It is again pointed out that this paper does not treat of the provisions of Title III of the 1970 Act, relating to land acquisition policies, that pursuant to the terms of Sec. 305 of Title III must be complied with "to the greatest extent practicable under State law."

II. SUGGESTED OPEN-END LEGISLATION

In lieu of amending existing state statutes to comply with the specific requirements of Title II of the 1970 Act, it is strongly recommended that consideration be given to the enactment of open-end legislation (i.e., in all states where no constitutional question is presented by open-end legislation). It would seem a foregone conclusion that the Uniform Relocation Assistance Act will be amended from time to time by the Congress of the United States. Unless open-end type legislation is adopted, it will be necessary for the states to amend existing laws to comply with even minor changes made in the provisions of mandatory sections of the Uniform Relocation Assistance Act. If, on the other hand, open-end type legislation is adopted, in all probability no amendments to state law would be required.

The following open-end statute is patterned in general on the previously quoted Oregon statute. Other states that have open-end legislation, and whose statutes may be profitably examined and studied, include Florida, Kentucky, Massachusetts, Michigan, Missouri, Texas, Vermont, and West Virginia.

There follows suggested open-end legislation that would enable state highway departments to comply with the mandatory sections of Title II of the 1970 Act.

> Section 1. *Authority to match federal funds available for relocation assistance; adoption of rules and regulations.* Whensoever federal funds are available for payment of financial assistance to persons displaced as a result of the acquisition of property for a federal-aid highway project, the state highway department shall have the authority to match federal funds to the extent provided by federal law and regulations; and the department is further authorized and empowered to promulgate and adopt such rules and regulations as are necessary and required to implement and administer financial assistance in accordance with the provisions of federal law and regulations.

There follows next suggested open-end legislation that would enable all state agencies to comply with the mandatory sections of Title II of the 1970 Act.

> Section 1. *Authority to match federal funds available for relocation assistance; adoption of rules and regulations.* Whensoever federal funds are available for payment of financial assistance to persons displaced as a result of the acquisition of property for a federally assisted public improvement, the state agency acquiring property for such improvement shall have the authority to match federal funds to the extent provided by federal law and regulations; and such agency is

3/ In the event that it is felt preferable to draft new legislation in order to effect compliance with the 1970 Act, reference is here made to the uniform relocation assistance act prepared by the Federal Highway Administration, distributed to state highway departments under FHWA Notice, dated March 30, 1971.

further authorized and empowered to promulgate and adopt such rules and regulations as are necessary and required to implement and administer financial assistance in accordance with the provisions of federal law and regulations.

States wishing to comply with the provisions of Sec. 206 (a) and Sec. 215 of Title II relating to the construction or rehabilitation of replacement housing, and the loan program in support thereof, probably should enact legislation specifically directed to compliance therewith.

A number of states have extended the relocation assistance benefits provided for in the 1968 Federal-Aid Highway Act to projects not supported by federal funds. Where such policy determination has heretofore been made, the open-end statute hereinbefore set forth should include such provision in order to render the same consistent with such policy.

APPLICATION

The foregoing research should enable state highway and transportation departments to identify readily those changes in existing state law that are required for conformity with the mandatory provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. It is suggested that the enactment of open-end legislation along the lines proposed in the paper might relieve the necessity of making changes in state law to comply with such changes as may be made by Congress in the future in the mandatory provisions of the federal legislation.