

CHAPTER 3

RELOCATION ASSISTANCE

Section

3-101 Declaration of policy

3-102 Definitions

3-103 Moving and related expenses

3-104 Replacement housing for homeowners

3-105 Replacement housing for tenants and certain others

3-106 Relocation assistance advisory programs

3-107 Assurance of availability of standard housing

3-108 Authority of chief executive to promulgate regulations

3-109 Administration

3-110 Availability of funds

3-111 Payments not to be considered as income or resources

3-112 Appeal procedure

43 PC 3-101. Declaration of policy.

The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced by the acquisition of real property by the Pohnpei Government and local land acquisition programs or by programs of rehabilitation of buildings or other improvements conducted pursuant to governmental supervision. The policy shall be uniform as to:

- (1) Relocation payments;
- (2) Advisory assistance; and
- (3) Assurance of availability of standard housing.

Source: P.L. No. 6-71 §2; 67 TTC §501 (1980)

43 PC 3-102. Definitions.

As used in this chapter:

(1) “Agency” means any department, agency or instrumentality of the state of Pohnpei, or of a political subdivision of the state of Pohnpei, or any department, agency or instrumentality of two or more political subdivisions of the state of Pohnpei

(2) “Person” means any individual, partnership, corporation or association.

(3) “Displaced person” means any person who, on or after the effective date of this chapter [July 31, 1975], 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 an agency, and, solely for the purpose of 43 PC 3-103(1) and (2) and 43 PC 3-106, 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.

(4) “Business” means any lawful activity, excepting a farm operation, conducted primarily:

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

(b) For the sale of services to the public; or

(c) By a nonprofit organization.

(5) “Farm operation” means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including copra, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

Source: P.L. No. 6-71 §2; 67 TTC §502 (1980)

43 PC 3-103. Moving and related expenses.

(1) If an agency acquires real property for public use, it shall make fair and reasonable relocation payments to displaced persons and businesses as required by this chapter for:

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

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

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

(2) Any displaced person eligible for payments under Subsection (1) 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 (1) of this section may receive a moving expense allowance, determined according to a schedule established by the agency, not to exceed \$300, and a dislocation allowance of \$200.

(3) Any displaced person eligible for payment under Subsection (1) 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 (1) 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 not be 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 agency is satisfied that the business:

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

(b) Is not a part of a commercial enterprise having at least one other establishment not being acquired by the agency, 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 income taxes during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such project, or during such other period as the 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.

Source: P.L. No 6-71 §2; 67 TTC §503 (1980)

43 PC 3-104. Replacement housing for homeowners.

(1) In addition to payments otherwise authorized by this chapter, the 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 the displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:

(a) The amount, if any, that when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling that is a decent, safe and sanitary dwelling according to contemporary community standards and 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 paragraph shall be determined by regulations issued pursuant to 43 PC 3-108.

(b) The amount, if any, that will compensate the displaced person for any increased interest costs that the person is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of the dwelling. The 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 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 determined by regulations issued pursuant to 43 PC 3-108; and

(c) Reasonable expenses incurred by the 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 section shall be made only to a displaced person who purchases and occupies a replacement dwelling that is decent, safe and sanitary according to contemporary community standards not later than the end of the one-year period beginning on the date on which he receives final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

Source: P.L. No. 6-71 §2; 67 TTC §504 (1980)

43 PC 3-105. Replacement housing for tenants and certain others.

In addition to amounts otherwise authorized by this chapter, an agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under 43 PC 1-104, which dwelling was actually and lawfully occupied by the displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. The payment shall be either:

(1) The amount necessary to enable the displaced person to lease or rent, for a period not to exceed four years, a decent, safe and sanitary dwelling according to contemporary community standards and adequate to accommodate the 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 the person to make a down payment including incidental expenses described in 43 PC 3-104(1)(c) on the purchase of a decent, safe and sanitary dwelling according to contemporary community standards and 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 the amount exceeds \$2,000, the person must equally match any amount in excess of \$2,000 in making the down payment.

Source: P.L. No. 6-71 §2; 67 TTC §505 (1980)

43 PC 3-106. Relocation assistance advisory programs.

(1) Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person on or after the effective date of this chapter, the agency shall provide a relocation assistance advisory program for displaced persons that shall offer the services prescribed in Subsection (2) of this section. If the agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer the person relocation advisory services under the program.

(2) Each relocation assistance program required by Subsection (1) of this section shall include such measures, facilities or services as may be necessary or appropriate in order to:

(a) Determine the needs of displaced persons, business concerns, and nonprofit organizations for relocation assistance;

(b) Assist owners of displaced businesses and farm operations in obtaining and becoming established in suitable business locations or replacement farms;

(c) Supply information concerning programs of the state government's offering assistance to displaced persons and business concerns;

(d) Assist in minimizing hardships to displaced persons in adjusting to relocation; and

(e) Secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas that may affect the carrying out of the relocation program.

Source: P.L. No. 6-71 §2; 67 TTC §506 (1980)

43 PC 3-107. Assurance of availability of standard housing.

Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person on or after the effective date of this chapter [July 31, 1975], the agency shall assure that, within a reasonable period of time prior to displacement, there will be available in areas not generally less suitable 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, dwellings that are decent, safe, and sanitary according to contemporary community standards and that are equal in number to the number of and available to displaced persons who require dwellings and that are reasonably accessible to the places of employment of said persons, except that regulations issued pursuant to 43 PC 3-108 may prescribe situations when these assurances may be waived.

Source: P.L. No. 6-71 §2; 67 TTC §507 (1980)

43 PC 3-108. Authority of chief executive to promulgate regulations.

(1) The chief executive in each local jurisdiction of the state of Pohnpei shall adopt rules and regulations necessary to assure that:

(a) The payments and assistance authorized by this chapter shall be administered in a manner that is fair and reasonable, and as uniform as practicable;

(b) A displaced person who makes proper application for a payment authorized by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(c) Any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of payment, may have his application reviewed by the Governor.

(2) The Governor may prescribe other regulations and procedures, consistent with this chapter.

Source: P .L. No. 6-71 §2; 67 TTC §508 (1980)

43 PC 3-109. Administration.

In order to prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the agency with the approval of the Governor may enter into contracts with any individual, firm, association or corporation for services in connection with those programs, or may carry out its functions under this chapter through any federal agency or any department or instrumentality of the state of Pohnpei or its political subdivisions having an established organization for conducting relocation assistance programs.

Source: P.L. No. 6-71 §2; 67 TTC §509 (1980)

43 PC 3-110. Availability of funds.

Funds appropriated or otherwise available to any agency for the acquisition of real property or any interest therein for a particular program or project shall be available also for obligation and expenditure to carry out this chapter as applied to that purpose or project.

Source: P.L. No. 6-71 §2; 67 TTC §510 (1980)

43 PC 3-111. Payments not to be considered as income or resources.

No payment received by a displaced person under this chapter shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any law of the state of Pohnpei, or for the purpose of any tax law. These payments shall not be considered as income or resources of any recipient of public assistance and the payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Source: P.L. No. 6-71 §2; 67 TTC §511 (1980)

43 PC 3-112. Appeal procedure.

Any person or business concerned aggrieved by a final administrative determination pursuant to 43 PC 3-108(1)(c) concerning eligibility for relocation payments authorized by this chapter may appeal that determination to the Trial Division of the Pohnpei Supreme Court in the area in which the land taken for public use is located or the rehabilitation program is conducted.

Source: P.L. No. 6-71 §2; 67 TTC §512 (1980)