

No. 123

AN ACT

HB 984

Amending the act of June 1, 1945 (P. L. 1242), entitled "An act relating to roads, streets, highways and bridges; amending, revising, consolidating and changing the laws administered by the Secretary of Highways and by the Department of Highways relating thereto," further providing for the applicability of the act, relocation and replacement payments and damages.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of June 1, 1945 (P. L. 1242), known as the "State Highway Law," is amended by adding after section 104, a new section to read:

Section 105. Applicability.—This act shall apply to all properties acquired or used for State highway purposes, whether acquired directly by the Department of Highways or by any municipality, public agency or authority, regardless of the original purpose of the acquisition.

Section 2. Section 304.2, subsection (a) of section 304.3 and section 304.5 of the act, added December 12, 1968 (Act No. 381), are amended to read:

Section 304.2. Relocation Payments.—(a) Payments for Actual Expenses. Any displaced person may elect to receive actual reasonable expenses in moving himself, his family, his business, or his farm operation, including personal property. In no event shall such expenses exceed the market value of the property moved. The distance of the move shall be reasonable, not to exceed fifty miles.

Payments authorized by this section are alternative payments to the removal expenses provided for in section 608 of the "Eminent Domain Code" and moving expenses provided for in section 610 of the "Eminent Domain Code," at the option of the condemnee.

(b) Optional Payments, Dwellings.—Any displaced person who moves from a dwelling who elects to accept payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive (1) a moving expense allowance, determined according to a schedule established by the Secretary of Highways, not to exceed two hundred dollars (\$200); and (2) a dislocation allowance of one hundred dollars (\$100).

(c) Optional Payments, Business and Farm Operations.—Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this section in lieu of payment authorized by subsection (a) of this section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, or five thousand dollars (\$5,000),

whichever is the lesser. In the case of a business, no payment shall be made under this subsection unless the Department of Highways is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not part of a commercial enterprise having at least one other establishment, not being acquired by the Department of Highways, 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, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such two-year period.

The payments authorized by this section are alternative payments to the business dislocation damages provided for in section 609 of the "Eminent Domain Code" at the option of the condemnee.

Section 304.3. Replacement Housing.—(a) In addition to amounts otherwise authorized, the Department of Highways shall make a payment to the owner of real property acquired for a project which is improved by a single, two, or three-family dwelling actually owned and occupied by owner for not less than one year prior to the initiation of negotiations for the acquisition of such property. Such payment, not to exceed five thousand dollars (\$5,000), shall be the amount, if any, which, when added to the acquisition payment, equals the average price required for a comparable dwelling determined, in accordance with standards established by the Secretary of Highways to be a decent, safe and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market. Such payment shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which he is required to move from the dwelling acquired for the project, *or who acquires a dwelling in anticipation of the acquisition within one year prior thereto and occupies the said dwelling within one year subsequent to the date on which he is required to move from the dwelling acquired for the project.*

* * *

Section 304.5. Damages.—Nothing contained in the aforesaid sections 304.1, 304.2, 304.3 or 304.4 shall be considered as enlarging or changing the formulas employed in determining just compensation under the provisions of the "Eminent Domain Code." [The damages herein provided are in lieu of the damages provided for in sections 608, 609 and 610 of the "Eminent Domain Code."]

Section 3. The provisions and benefits of this act shall take effect immediately upon approval, and shall apply to all amicable acquisitions and condemnations effected thereafter, and shall also apply to all amicable

acquisitions and all condemnations effected prior thereto from which the displacement of persons, business and/or farm operations shall not have taken place prior to August 23, 1968, the effective date of the Federal-Aid Highway Act of 1968 (Chapter 5, Title 23, U.S.C.), which this act implements.

APPROVED—The 30th day of October, A. D. 1969.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 123.

A handwritten signature in cursive script, appearing to read "Joseph P. Kelly, Jr.", written in black ink.

Secretary of the Commonwealth.