WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1988

ENROLLED
Com. Sub. for
HOUSE BILL No. 4439

(By Mr. Speaker, Mr. Chambers, and Delegate Swann)
(By Request of the Executive)

Passed March 12, 1988

In Effect from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4439
(By Mr. Speaker, Mr. Chambers, and Delegate Swann)
[By request of the Executive]

[Passed March 12, 1988; in effect from passage.]

AN ACT to amend and reenact section twenty, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections one, three and four, article three, chapter fifty-four of said code; all relating to implementing the 1987 amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which amendments are contained in Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 and designating department of highways as lead agency in the promulgation of rules.

Be it enacted by the Legislature of West Virginia:

That section twenty, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that sections one, three and four, article three, chapter fifty-four of said code be amended and reenacted, all to read as follows:

CHAPTER 17. ROADS AND HIGHWAYS.
ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.
§17-2A-20. Relocation assistance to and replacement housing costs for persons dislocated by highway construction.

The payment of relocation costs and replacement housing costs to persons dislocated by highway construction is hereby declared to be a cost of highway construction and may be paid from the state road fund, subject to the provisions of this section. The commissioner of highways shall make the payments authorized by this section to reduce hardships to persons so dislocated. In addition, the commissioner shall render advisory assistance to persons affected and shall call upon and coordinate the services of such other agencies of state and local government as may be capable of rendering such assistance to reduce hardships to persons affected and to reduce delays in highway construction. In rendering such advisory assistance, the commissioner may accumulate and maintain lists of various kinds of properties available to which persons affected may be relocated, and acquire and file such other information and take such other action as may be necessary to render such advisory assistance. With respect to persons dislocated by federal-aid highway projects, the commissioner shall provide a relocation assistance program which will comply with and implement the federal laws and regulations relating to relocation assistance to displaced persons as set forth in the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, being Public Law 91-646 enacted by the Ninety-first Congress of the United States of America, and the 1987 amendments thereto known as Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987, being Public Law 100-17 enacted by the One Hundredth Congress of the United States of America.

Any individual, family, business concern (including the operation of a farm) or nonprofit organization to be displaced by a highway construction project shall be compensated consistent with the provisions and limitations of federal acts for reasonable and necessary costs to be incurred in consequence of being so displaced.
When a family is displaced, no additional payment shall be made to individuals who are members of such family; but, if two or more displaced families occupy the same dwelling or comprise a single household, each family within such dwelling or household may receive relocation costs as provided in this section. Payments under this section are subject to the limitations provided herein and to any rules and regulations made by the commissioner as herein provided.

With respect to state highway projects and federal-aid highway projects, the commissioner shall have authority to make such payments for relocation costs, reestablishment costs, replacement housing costs, including the increased interest costs which the displaced person is required to pay for financing the acquisition of a comparable replacement dwelling, and 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, and expenses incidental to the transfer of property as are authorized by the abovementioned Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, being Public Law 91-646 enacted by the Ninety-first Congress of the United States of America, and the 1987 amendments thereto known as Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987, being Public Law 100-17 enacted by the One Hundredth Congress of the United States of America.

The commissioner shall establish by rules and regulations a procedure for the payment of relocation costs within the limits of and consistent with the policies of this section and the aforesaid federal laws and regulations. Such rules and regulations may authorize lump sum payments to individuals or families, in lieu of their respective provable costs, based upon the size of the dwelling being vacated or the number of persons being affected or any other reasonable basis. The commissioner may authorize the obligations of or payment of relocation costs in advance of expenditure for relocation by any person, firm or organization eligible to receive
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80 such payment where such advance obligation or pay-
81 ment would speed the clearance of highway construction
82 sites or reduce hardships.
83
84 With respect to state highway projects and federal-aid
85 highway projects, the commissioner shall also have
86 authority to comply with the aforesaid federal laws and
87 regulations relating to providing last-resort replacement
88 housing.
89
90 Nothing contained in this section or in the federal
91 laws and regulations relating to relocation assistance
92 and payments to displaced person shall be construed as
93 creating in any condemnation proceedings brought
94 under the power of eminent domain, any element of
95 damages not in existence on the effective date of this
96 section or of the federal laws and regulations relating
97 to relocation assistance and payments to displaced
98 persons.

CHAPTER 54. EMINENT DOMAIN.

ARTICLE 3. IMPLEMENTATION OF UNIFORM RELOCATION
ASSISTANCE AND REAL PROPERTY ACQUISI-
AMENDMENTS THERETO KNOWN AS TITLE IV
OF THE SURFACE TRANSPORTATION AND UNI-
FORM RELOCATION ASSISTANCE ACT OF 1987.

§54-3-1. Definitions.
1 As used in this article, the term:
2 (1) “Federal act” means the “Uniform Relocation
3 Assistance and Real Property Acquisition Policies Act
4 of 1970,” being Public Law 91-646, enacted by the
5 Ninety-first Congress of the United States of America,
6 and the 1987 amendments thereto known as Title IV of
7 the Surface Transportation and Uniform Relocation
8 Assistance Act of 1987 being Public Law 100-17 enacted
9 by the One Hundredth Congress of the United States of
10 America.
11 (2) “Acquiring agency” means the state of West
12 Virginia or any department, agency or instrumentality
13 thereof, or any county, municipality or other political
14 subdivision thereof or any department, agency or
instrumentality of two or more states or of two or more political subdivisions of a state or states, and any person who has the authority to acquire property by eminent domain under state law.

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

§54-3-3. Implementation of federal act; powers of state agencies; payments under act not considered income or resources for certain purposes.

In order to accomplish the purposes set forth in section two of this article and to satisfy the requirements of adequately compensating displaced persons under such federal acts, each acquiring agency is hereby required and is hereby granted plenary power and authority to adopt rules and regulations, which shall have the force and effect of law, to implement the provisions of such federal acts and make applicable to such acquiring agency the policies and requirements of such federal acts which are pertinent to the mission and functions of such acquiring agency, including, without in any way limiting the generality of the foregoing, the carrying out of all procedures and the making of all financial assistance payments, relocation assistance payments, replacement housing payments, loans and expense reimbursement payments required by such federal acts, subject only to any restrictions or limitations imposed by the constitution of the state of West Virginia. The department of highways is hereby designated as the lead agency to develop, publish and issue such regulations to implement the provisions of this act and also to coordinate and provide policy and interpretations where necessary.

No payment of any type required by such federal acts and received by any person under this article and such rules and regulations 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 state law, or under any state or local tax law or ordinance, and no such payment shall be considered as income or resources of any recipient of public assistance.
and no such payment shall be deducted from the amount
of aid to which the recipient would otherwise be entitled.

§54-3-4. Construction of article; assistance for dislocation,
etc., occurring prior to effective date.

Neither the provisions of this article nor any rules and
regulations promulgated pursuant to section three of
this article are intended to abrogate or derogate the
provisions of section twenty, article two-a, chapter
seventeen of this code, and, to the extent not in conflict
with said section twenty, the West Virginia department
of highways shall be considered to be an acquiring
agency within the meaning of this article. To the extent
that such department may expend funds or make
payments pursuant to the provisions of this article and
such rules and regulations, such expenditures or
payments are hereby declared to be a cost of highway
construction and may be expended and paid from the
state road fund.

Neither the provisions of this article nor any rules and
regulations promulgated pursuant to section three of
this article shall be construed or interpreted so as to
create any element of value or damage not in existence
prior to the effective date of this article in any
condemnation proceedings brought under the power of
eminent domain exercised by any state agency except
to the extent, if any, required by applicable law of the
United States; but, notwithstanding any other provision
of law, whenever an acquiring agency in a condemnation
proceeding pays a sum into court as representing
the fair market value of property to be acquired, the
amount of the award or verdict pertaining to such
property shall not be less than such sum.

Any acquiring agency may provide assistance as
contemplated in such federal act even though the
dislocation or acquisition occasioning the same occurred
prior to the effective date of this article if federal funds
are available for the payment of any such assistance.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.
Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 20th day of , 1988.

Governor
PRESENTED TO THE
GOVERNOR

Date 3/20/88
Time 5:00 p.m.