

ASSEMBLY BILL

No. 450

Introduced by Assembly Member Torlakson

February 24, 1997

An act to amend Sections 7260, 7262.5, and 7264 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 450, as introduced, Torlakson. Housing: Relocation Assistance Act.

Existing law, known as the Relocation Assistance Act, requires a public entity to provide compensation and advisory services to any person, business, or farm operation that is displaced because of the acquisition of real property for public use. Existing law governs the provision of relocation assistance, including benefits for displaced persons, as defined, and procedural protections for persons required to move from their homes. For purposes of the Relocation Assistance Act, 'comparable replacement dwelling' is defined to mean, among other specified things, any dwelling that is, in the case of a displaced person who is a renter, one in which the monthly rental cost of the dwelling minus any replacement housing payment available to the person does not exceed 25% of the person's average monthly income. Additionally, under the act, rent supplements necessary to enable displaced tenants to lease or rent a comparable replacement dwelling extend for a period not to exceed 48 months, with the exception of supplements for displacements

caused by publicly funded transportation projects, which extend for only 42 months.

This bill would revise the definition of ‘comparable replacement dwelling’ for purposes of the Relocation Assistance Act by raising the percentage that a displaced person pays for housing expenses from 25% to 30% of the average monthly income as the standard of a replacement dwelling that is within the person’s financial means, and would reduce the period authorized for rent supplements necessary to enable displaced tenants to lease or rent a comparable replacement dwelling, from 48 months to 42 months.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7260 of the Government Code is
- 2 amended to read:
- 3 7260. As used in this chapter:
- 4 (a) “Public entity” includes the state, the Regents of
- 5 the University of California, a county, city, city and
- 6 county, district, public authority, public agency, and any
- 7 other political subdivision or public corporation in the
- 8 state or any entity acting on behalf of these agencies when
- 9 acquiring real property, or any interest therein, in any
- 10 city or county for public use and any person who has the
- 11 authority to acquire property by eminent domain under
- 12 state law.
- 13 (b) “Person” means any individual, partnership,
- 14 corporation, limited liability company, or association.
- 15 (c) (1) “Displaced person” means both of the
- 16 following:
- 17 (A) Any person who moves from real property, or who
- 18 moves his or her personal property from real property,
- 19 either:
- 20 (i) As a direct result of a written notice of intent to
- 21 acquire or the acquisition of the real property, in whole
- 22 or in part, for a program or project undertaken by a public



1 entity or by any person having an agreement with or
2 acting on behalf of a public entity.

3 (ii) As a direct result of the rehabilitation, demolition,
4 or other displacing activity as the public entity may
5 prescribe under a program or project undertaken by a
6 public entity, of real property on which the person is a
7 residential tenant or conducts a business or farm
8 operation, in any case in which the public entity
9 determines that the displacement is permanent. For
10 purposes of this subparagraph, “residential tenant”
11 includes any occupant of a residential hotel unit, as
12 defined in subdivision (b) of Section 50669 of the Health
13 and Safety Code, and any occupant of employee housing,
14 as defined in Section 17008 of the Health and Safety Code,
15 but shall not include any person who has been
16 determined to be in unlawful occupancy of the
17 displacement dwelling.

18 (B) Solely for the purposes of Sections 7261 and 7262,
19 any person who moves from real property, or moves his
20 or her personal property from real property, either:

21 (i) As a direct result of a written notice of intent to
22 acquire or the acquisition of other real property, in whole
23 or in part, on which the person conducts a business or
24 farm operation, for a program or project undertaken by
25 a public entity.

26 (ii) As a direct result of the rehabilitation, demolition,
27 or other displacing activity as the public entity may
28 prescribe under a program or project undertaken by a
29 public entity, of other real property on which the person
30 conducts a business or farm operation, in any case in
31 which the public entity determines that the displacement
32 is permanent.

33 (2) The definition contained in this subdivision shall
34 be construed so that persons displaced as a result of public
35 action receive relocation benefits in cases where they are
36 displaced as a result of an owner participation agreement
37 or an acquisition carried out by a private person for or in
38 connection with a public use where the public entity is
39 otherwise empowered to acquire the property to carry
40 out the public use. Except persons or families of low and



1 moderate income, as defined in Section 50093 of the
2 Health and Safety Code, who are occupants of housing
3 which was made available to them on a permanent basis
4 by a public agency and who are required to move from
5 the housing, a “displaced person” shall not include any of
6 the following:

7 (A) Any person who has been determined to be in
8 unlawful occupancy of the displacement dwellings.

9 (B) Any person whose right of possession at the time
10 of moving arose after the date of the public entity’s
11 acquisition of the real property.

12 (C) Any person who has occupied the real property for
13 the purpose of obtaining assistance under this chapter.

14 (D) In any case in which the public entity acquires
15 property for a program or project (other than a person
16 who was an occupant of the property at the time it was
17 acquired), any person who occupies the property for a
18 period subject to termination when the property is
19 needed for the program or project.

20 (3) (A) Notwithstanding Section 7265.3 or any other
21 provision of law, a person who is temporarily displaced for
22 not more than 180 days, and who is offered occupancy of
23 a comparable replacement unit located within the same
24 apartment complex that contains the unit from which he
25 or she has been displaced, shall not be deemed a
26 “displaced person” for the purposes of this chapter. This
27 paragraph shall be applicable only if all of the following
28 conditions are complied with:

29 (i) All other financial benefits and services otherwise
30 required under this chapter are provided to the tenants
31 temporarily displaced from their units.

32 (ii) The resident is offered the right to return to his or
33 her original unit, with rent for the first 12 months
34 subsequent to that return being the lower of the
35 following: up to 5 percent higher than the rent at the time
36 of displacement; or up to 25 percent of household income.

37 (iii) The temporary unit is not unreasonably impacted
38 by the effects of the construction, taking into
39 consideration the ages and physical conditions of the



1 members of the displaced household, and the estimated
2 period of displacement is reasonable.

3 (iv) The property is a qualified affordable housing
4 preservation project.

5 (B) For the purposes of this paragraph:

6 (i) “Apartment complex” means four or more
7 residential rental units subject to common ownership and
8 financing that are also located on the same or contiguous
9 parcels.

10 (ii) “Qualified affordable housing preservation
11 project” is any complex of four or more units whose
12 owners enter into a recorded regulatory agreement,
13 having a term for the useful life of the project, with any
14 entity for the provision of project rehabilitation
15 financing. For this purpose, the regulatory agreement
16 shall require of the owner and all successors and assigns
17 of the owner, as long as the regulatory agreement is in
18 effect, that at least 49 percent of the tenants in the project
19 shall have, at the time of the recordation of the regulatory
20 agreement required by this section, incomes not in excess
21 of 60 percent of the area median income, adjusted by
22 household size, as determined by the appropriate agency
23 of the State of California. In addition, a project shall be
24 defined as a qualified affordable housing preservation
25 project only if the beneficiary of the regulatory
26 agreement elects this designation by so indicating on the
27 regulatory agreement.

28 (d) “Business” means any lawful activity, except a
29 farm operation, conducted for any of the following:

30 (1) Primarily for the purchase, sale, lease, or rental of
31 personal and real property, and for the manufacture,
32 processing, or marketing of products, commodities, or
33 any other personal property.

34 (2) Primarily for the sale of services to the public.

35 (3) Primarily by a nonprofit organization.

36 (4) Solely for the purpose of Section 7262 for assisting
37 in the purchase, sale, resale, manufacture, processing, or
38 marketing of products, commodities, personal property,
39 or services by the erection and maintenance of an
40 outdoor advertising display, whether or not the display is



1 located on the premises on which any of the above
2 activities are conducted.

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

10 (f) “Affected property” means any real property
11 which actually declines in fair market value because of
12 acquisition by a public entity for public use of other real
13 property and a change in the use of the real property
14 acquired by the public entity.

15 (g) “Public use” means a use for which real property
16 may be acquired by eminent domain.

17 (h) “Mortgage” means classes of liens that are
18 commonly given to secure advances on, or the unpaid
19 purchase price of, real property, together with the credit
20 instruments, if any, secured thereby.

21 (i) “Comparable replacement dwelling” means any
22 dwelling that is all of the following:

23 (1) Decent, safe, and sanitary.

24 (2) Adequate in size to accommodate the occupants.

25 (3) In the case of a displaced person who is a renter,
26 within the financial means of the displaced person. A
27 comparable replacement dwelling is within the financial
28 means of a displaced person if the monthly rental cost of
29 the dwelling minus any replacement housing payment
30 available to the person does not exceed ~~25~~ 30 percent of
31 the person’s average monthly income.

32 (4) Comparable with respect to the number of rooms,
33 habitable space, and type and quality of construction.
34 Comparability under this paragraph shall not require
35 strict adherence to a detailed, feature-by-feature
36 comparison. While a comparable replacement dwelling
37 need not possess every feature of the displacement
38 dwelling, the principal features shall be present.

39 (5) In an area not subject to unreasonable adverse
40 environmental conditions.



1 (6) In a location generally not less desirable than the
2 location of the displaced persons dwelling with respect to
3 public utilities, facilities, services, and the displaced
4 person's place of employment.

5 (j) "Displacing agency" means any public entity or
6 person carrying out a program or project which causes a
7 person to be a displaced person for a public project.

8 (k) "Appraisal" means a written statement
9 independently and impartially prepared by a qualified
10 appraiser setting forth an opinion of defined value of an
11 adequately described property as of a specific date,
12 supported by the presentation and analysis of relevant
13 market information.

14 (l) "Small business" means a business as defined in
15 Part 24 of Title 49 of the Code of Federal Regulations.

16 (m) "Lead agency" means the Department of
17 Housing and Community Development.

18 SEC. 2. Section 7262.5 of the Government Code is
19 amended to read:

20 7262.5. (a) Notwithstanding Section 7265.3 or any
21 other provision of law, tenants residing in any multifamily
22 rental project of four or more units who are displaced
23 from the project for a period of 180 days or less as part of
24 a rehabilitation of that project, that is funded in whole or
25 in part by a public entity, shall not be deemed
26 permanently displaced if all of the following criteria are
27 satisfied:

28 (1) All other financial benefits and services otherwise
29 required under this chapter are provided to the tenants
30 temporarily displaced from their units, including
31 relocation to a comparable replacement unit.

32 (2) The resident is offered the right to return to his or
33 her original unit, with rent for the first 12 months
34 subsequent to that return being the lower of the
35 following: up to 5 percent higher than the rent at the time
36 of displacement; or up to ~~25~~ 30 percent of household
37 income.

38 (3) The estimated time of displacement is reasonable,
39 and the project is a qualified affordable housing
40 preservation project.



1 (b) For the purposes of this section, “qualified
2 affordable housing preservation project” shall have the
3 meaning set forth in subparagraph (B) of paragraph (3)
4 of subdivision (c) of Section 7260.

5 SEC. 3. Section 7264 of the Government Code is
6 amended to read:

7 7264. (a) In addition to the payments required by
8 Section 7262, as a part of the cost of acquisition, the public
9 entity shall make a payment to any displaced person
10 displaced from any dwelling not eligible to receive a
11 payment under Section 7263 which was actually and
12 lawfully occupied by the person as a permanent or
13 customary and usual place of abode for not less than 90
14 days prior to the initiation of negotiation by the public
15 entity for the acquisition of the dwelling, or in any case
16 in which displacement is not a direct result of acquisition,
17 or any other event which the public entity shall prescribe.

18 (b) The payment, not to exceed five thousand two
19 hundred fifty dollars (\$5,250), shall be the additional
20 amount which is necessary to enable the person to lease
21 or rent a comparable replacement dwelling for a period
22 not to exceed ~~48~~ 42 months. However, publicly funded
23 transportation projects shall make payments enabling the
24 person to lease or rent a comparable replacement
25 dwelling for a period not to exceed 42 months, including
26 compensation for utilities, as provided in subdivision (b)
27 of Section 24.402 of Part 24 of Title 49 of the Code of
28 Federal Regulations. Payments up to the maximum of
29 five thousand two hundred fifty dollars (\$5,250) shall be
30 made in a lump sum. Should an agency pay pursuant to
31 Section 7264.5 an amount exceeding the maximum
32 amount, payment may be made periodically.
33 Computation of a payment under this subdivision to a
34 low-income displaced person for a comparable
35 replacement dwelling shall take into account the person’s
36 income.

37 (c) Any person eligible for a payment under
38 subdivision (a) may elect to apply the payment to a down
39 payment on, and other incidental expenses pursuant to,
40 the purchase of a decent, safe, and sanitary replacement



1 dwelling. The person may, at the discretion of the public
2 entity, be eligible under this subdivision for the maximum
3 payment allowed under subdivision (b), except that, in
4 the case of a displaced homeowner who has owned and
5 occupied the displacement dwelling for at least 90 days
6 but not more than 180 days immediately prior to the
7 initiation of negotiations for the acquisition of the
8 dwelling, the payment shall not exceed the payment
9 which the person would otherwise have received under
10 subdivision (b) of Section 7263 had the person owned and
11 occupied the displacement dwelling 180 days
12 immediately prior to the initiation of the negotiations.

13 (d) In implementing this chapter, it is the intent of the
14 Legislature that special consideration shall be given to
15 assisting any displaced person 62 years of age or older to
16 locate or lease or rent a comparable replacement
17 dwelling.

