

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 164**

Introduced By: Fischer, 43;  
Read first time: January 8, 2007  
Committee: Judiciary

A BILL

1       FOR AN ACT relating to relocation assistance; to amend sections  
2               76-1221 and 76-1228, Reissue Revised Statutes of Nebraska;  
3               to add categories of persons excluded from the definition of  
4               displaced persons; to authorize rules and regulations; to  
5               harmonize provisions; and to repeal the original sections.  
6       Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 76-1221, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           76-1221. (1) Displaced person ~~shall mean:~~ means:

4           (a) Any person who, on or after April 2, 1989, moves from or  
5 moves his or her personal property from real property as a result of  
6 ~~the acquisition of or~~ a written notice of the intent to acquire,  
7 the initiation of negotiations for, or the acquisition~~all or part~~  
8 of such real property, in whole or in part, for a publicly  
9 financed project;

10           (b) Any person who, as a result of a publicly financed  
11 project, moves from or moves his or her personal property from real  
12 property on which such person is a residential tenant, conducts a  
13 small business as defined by criteria established by the lead agency  
14 which are consistent with regulations adopted and promulgated by the  
15 United States Department of Transportation under the Uniform  
16 Relocation Assistance and Real Property Acquisition Policies Act of  
17 1970, ~~Public Law 91-646, as amended,~~ 42 U.S.C. 4601, et seq., as  
18 the act existed on January 1, 2007, conducts a farm operation, or  
19 conducts a business, as a direct result of rehabilitation,  
20 demolition, or other displacing activity when such displacement is  
21 permanent; or

22           (c) Solely for purposes of sections 76-1228, 76-1229, and  
23 76-1238, any person who moves from or moves his or her personal  
24 property from real property as a direct result of (i) written notice  
25 of intent to acquire or the acquisition of other real property, in  
26 whole or in part, on which such person conducts a business or farm  
27 operation or (ii) the rehabilitation, demolition, or other displacing

1 activity of other real property on which such person conducts a  
2 business or a farm operation, when such displacement is permanent.

3 (2) Displaced person ~~shall~~ does not include:

4 (a) ~~a~~ A person who ~~either~~ is determined by the  
5 displacing agency to be in unlawful occupancy of ~~any~~ the  
6 property subject to the Relocation Assistance Act or occupied such  
7 property for the purpose of obtaining assistance under the act or  
8 prior to or after the initiation of negotiations or a person who has  
9 been evicted for cause;

10 (b) ~~in~~ In any case in which the displacing agency  
11 acquires property for a publicly financed project, any person who  
12 occupies such property on a rental basis after the property has been  
13 acquired by the displacing agency or for a period subject to  
14 termination when the property is needed for the project;

15 (c) A person who moves before the initiation of  
16 negotiations unless the agency determines that the person was  
17 displaced as a direct result of the program or project;

18 (d) A person who initially enters into occupancy of the  
19 property after the date of its acquisition for the project;

20 (e) A person who has occupied the property for the purpose  
21 of obtaining assistance under the Uniform Relocation Assistance and  
22 Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, et  
23 seq., as the act existed on January 1, 2007;

24 (f) A person who is not required to relocate permanently as  
25 a direct result of a project;

26 (g) An owner-occupant who moves as a result of the  
27 rehabilitation or demolition of the real property or an owner-occupant

1 who moves as a result of an acquisition of real property when the  
2 acquisition of the real property meets all the following conditions:

3 (i) No specific site or real property needs to be acquired,  
4 although the agency may limit its search for alternative sites to a  
5 general geographic area;

6 (ii) The real property to be acquired is not part of an  
7 intended, planned, or designated project area where all or  
8 substantially all of the real property within the area is to be  
9 acquired within specific time limits;

10 (iii) The agency will not acquire the real property if  
11 negotiations fail to result in an amicable agreement and the owner is  
12 so informed in writing; and

13 (iv) The agency informs the owner in writing of what it  
14 believes to be the market value of the real property.

15 Subdivision (g) of this subsection does not apply to any  
16 tenant who must move as a direct result of the acquisition,  
17 rehabilitation, or demolition;

18 (h) An owner-occupant who moves as a result of an  
19 acquisition of real property when the acquisition of the real property  
20 is for a program or project undertaken by an agency or person that  
21 does not have authority to acquire real property by eminent domain,  
22 if such agency or person:

23 (i) Prior to making an offer for the real property, clearly  
24 advises the owner that it is unable to acquire the real property if  
25 negotiations fail to result in an agreement; and

26 (ii) Informs the owner in writing of what it believes to be  
27 the market value of the real property.

1           Subdivision (h) of this subsection does not apply to any  
 2           tenant who must move as a direct result of the acquisition;

3           (i) A person who the agency determines is not displaced as  
 4           a direct result of a partial acquisition;

5           (j) A person who, after receiving a notice of the intent to  
 6           acquire, the initiation of negotiations, or the acquisition of the  
 7           real property, is notified in writing that he or she will not be  
 8           displaced for a project;

9           (k) A person who retains the right of use and occupancy of  
 10           the real property for life following its acquisition by the agency;

11           (l) A person who is not lawfully present in the United  
 12           States and who has been determined to be ineligible for relocation  
 13           assistance pursuant to rules and regulations adopted and promulgated  
 14           by the lead agency which are consistent with 49 C.F.R. 24.208, as  
 15           that regulation existed on January 1, 2007; or

16           (m) Tenants required to move as a result of the sale of  
 17           their dwelling to a person using downpayment assistance authorized by  
 18           section 102 of the American Dream Downpayment Act, 42 U.S.C. 12821.

19           Sec. 2. Section 76-1228, Reissue Revised Statutes of  
 20           Nebraska, is amended to read:

21           76-1228. Whenever a program or project to be undertaken by a  
 22           displacing agency will result in the displacement of any person, the  
 23           head of the displacing agency shall provide for the payment to the  
 24           displaced person of:

25           (1) ~~actual~~ Actual reasonable expenses in moving himself  
 26           or herself and his or her family, business, farm operation, or other  
 27           personal property; 7

1           (2) ~~actual~~ Actual direct losses of tangible personal  
2 property as a result of moving or discontinuing a business or farm  
3 operation, but not to exceed an amount equal to the reasonable  
4 expenses that would have been required to relocate such property, as  
5 determined by the head of the agency; 7

6           (3) ~~actual~~ Actual reasonable expenses in searching for a  
7 replacement business or farm; 7 and

8           (4) ~~actual~~ Actual reasonable expenses necessary to  
9 reestablish at its new site a displaced farm, nonprofit organization,  
10 or small business as defined by criteria established by the lead  
11 agency which are consistent with regulations adopted and promulgated  
12 by the United States Department of Transportation under the Uniform  
13 Relocation Assistance and Real Property Acquisition Policies Act of  
14 1970, ~~Public Law 91-646, as amended,~~ 42 U.S.C. 4601, et seq., as  
15 the act existed on January 1, 2007, but not to exceed ten thousand  
16 dollars.

17           The lead agency may adopt and promulgate rules and  
18 regulations establishing a reasonable maximum payment under  
19 subdivision (3) of this section which are consistent with regulations  
20 adopted by the United States Department of Transportation under the  
21 Uniform Relocation Assistance and Real Property Acquisition Policies  
22 Act of 1970, 42 U.S.C. 4601 et seq., as the act existed on January 1,  
23 2007.

24           Sec. 3. Original sections 76-1221 and 76-1228, Reissue  
25 Revised Statutes of Nebraska, are repealed.