

TITLE 40
HIGHWAYS AND BRIDGES

CHAPTER 20
HIGHWAY RELOCATION ASSISTANCE

40-2001. RELOCATION AID FOR PERSONS DISPLACED BY PUBLIC PROGRAMS -- LEGISLATIVE FINDING. The legislature finds and declares that the prompt and equitable relocation and reestablishment of persons, families, businesses, farmers, and nonprofit organizations displaced as a result of any state or local governmental program or project is a necessary purpose, is a cost of those programs and projects and is a public purpose. In order to insure that individuals do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole the legislature declares that relocation payments and relocation advisory assistance shall be provided to all persons so displaced in accordance with the terms and provisions of this chapter and rules promulgated by the board. The legislature finds and declares that rent supplement or purchase assistance payments to tenants and relocation payments to owner-occupants, businesses, and farmers in accordance with the provisions of this chapter are a public purpose and are necessary to enable all displaced persons to obtain decent, safe, and sanitary dwellings. The legislature further declares the provisions of this chapter may be applicable to all programs.

[40-2001, added 1985, ch. 253, sec. 2, p. 689; am. 2000, ch. 192, sec. 1, p. 473.]

40-2002. RELOCATION ADVISORY ASSISTANCE. Any agency is authorized, as a part of the cost of any program or project, to give relocation advisory assistance to any individual, family, business or farm operation displaced because of the acquisition of real property for any project. If any agency determines that any person occupying property immediately adjacent to the real property acquired has been caused substantial economic injury because of the acquisition, it shall offer him relocation advisory services.

[40-2002, added 1985, ch. 253, sec. 2, p. 690; am. 2000, ch. 192, sec. 2, p. 473.]

40-2003. LOCAL RELOCATION ADVISORY ASSISTANCE OFFICES. Any agency may, as a part of the cost of any public program or project, establish a local relocation advisory assistance office or agency to assist in obtaining relocation facilities for individuals, families and businesses which must relocate because of the acquisition of right-of-way for any project.

[40-2003, added 1985, ch. 253, sec. 2, p. 690.]

40-2004. RELOCATION EXPENSE -- COMPENSATION OPTIONS -- LIMIT OF COMPENSATION FOR BUSINESS OR FARM RELOCATIONS. (1) As a part of the cost of any public program or project, any agency using any funds for public purposes shall compensate a displaced person for his actual and reasonable expense in moving himself, family, business or farm operation, including moving personal property, and for any actual direct losses of tangible personal property as the 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 the property, as determined by the agency, and for actual reasonable expenses in searching for a replacement business or farm. However, the compensation authorized by this section for actual and reasonable moving expenses, actual direct losses of tangible personal property, and expenses in searching for a replacement farm or business shall be limited to relocating a displaced person, family, business or farm operation within a reasonable distance from the location previously occupied and from which the displaced person has been required to move.

(2) Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section shall receive a moving expense allowance, determined according to regulations and schedules established by the agency, not to exceed three hundred dollars (\$300), and in addition a dislocation allowance of two hundred dollars (\$200).

(3) Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section, shall receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that the payment shall not be less than two thousand five hundred dollars (\$2,500) nor more than ten thousand dollars (\$10,000). In the case of a business, no payment shall be made under this subsection unless the agency is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one (1) other establishment not being acquired which is engaged in the same or similar business. In addition to the other requirements of this chapter, to be eligible for the payment authorized by this subsection the business or farm operation must make its financial statements, accounting records, and state income tax returns available to the agency for audit for confidential use in determining the payment or payments authorized by this subsection. Such financial statements, accounting records and state income tax returns shall be subject to disclosure according to [chapter 1, title 74](#), Idaho Code.

(4) If any agency determines that property, contiguous with property acquired, owned or occupied by an individual, family, business or farm operation, has been damaged as the result of a public program or project, it shall offer the individual, family, business or farm operation the same compensation as it might offer to a displaced person under subsection (1), (2) or (3) of this section and under sections [40-2005](#) and [40-2007](#), Idaho Code.

[40-2004, added 1985, ch. 253, sec. 2, p. 690; am. 1990, ch. 213, sec. 51, p. 521; am. 2000, ch. 192, sec. 3, p. 474; am. 2015, ch. 141, sec. 104, p. 453.]

40-2005. PURCHASE ASSISTANCE TO RELOCATING OWNER-OCCUPANT -- LEASE OR DOWN PAYMENT ASSISTANCE TO RELOCATING TENANT. (1) In addition to the payments authorized by section [40-2004](#), Idaho Code, an agency shall make a payment to the owner of a dwelling, provided the dwelling has been owned and occupied by the owner for at least one hundred eighty (180) days prior to the first written offer for the acquisition of the property. The payment shall not exceed fifteen thousand dollars (\$15,000) and shall be the amount, which, when added to the acquisition payment, equals the reasonable cost required for a comparable dwelling determined in accordance with standards established by the agency to be suitable to accommodate the displaced owner. The payment shall be made only to a displaced owner who purchases

and occupies a dwelling that meets standards established by the agency, not later than the end of a one (1) year period beginning on the date on which he received 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. Payment under this subsection will include an amount which will compensate the displaced person for any increased interest costs which the person is required to pay for financing the acquisition of any comparable replacement dwelling. This amount will be paid only if the dwelling acquired by the agency was encumbered by a mortgage which was a valid lien on the dwelling for not less than one hundred eighty (180) days prior to the first written offer 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 which 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 current value. The discounted rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. This amount shall also include 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 shall not include prepaid expenses.

(2) In addition to the payments authorized by section 40-2004, Idaho Code, any agency shall make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (1) of this section, which dwelling was actually and lawfully occupied by the individual or family for at least ninety (90) days prior to the first written offer for the acquisition of the property. The payment, not to exceed four thousand dollars (\$4,000), shall be the additional amount which is necessary to enable the individual or family to lease or rent for a period not to exceed four (4) years, or to make a down payment, including reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of a dwelling of standards adequate to accommodate the individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, except that if the amount exceeds two thousand dollars (\$2,000) the person must equally match any payment in excess of two thousand dollars (\$2,000), in making the down payment.

[40-2005, added 1985, ch. 253, sec. 2, p. 691; am. 2000, ch. 192, sec. 4, p. 475.]

40-2006. HOUSING REPLACEMENT AS LAST RESORT. (1) If any federally-assisted program or project construction cannot commence because comparable replacement sale or rental housing is not available, and the agency determines that housing cannot otherwise be made available, it may take action as is necessary or appropriate to provide housing by use of funds authorized for the project.

(2) No displaced person shall be required to move from his dwelling on account of any federally-assisted program or project, unless the agency is satisfied that replacement housing is available to the person, within a reasonable period of time and at rents or prices within the financial means of the families and individuals displaced, and reasonably accessible to their places of employment.

[40-2006, added 1985, ch. 253, sec. 2, p. 692.]

40-2007. COMPENSATION FOR MISCELLANEOUS EXPENSES. In addition to amounts authorized by this chapter, any agency as a part of the cost of any public program or project, shall reimburse the owner of real property acquired for a project for reasonable and necessary expenses incurred for:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying the property;

(2) Penalty costs for prepayment of any mortgage entered into in good faith encumbering the real property if the mortgage is on record or has been filed for record under applicable state law on the date of final approval by the agency of the location of the project; and

(3) The pro rata share or portion of ad valorem taxes paid which are allocable to a period subsequent to the date of vesting of title in the state or the effective date of possession of the real property by the agency, whichever is earlier.

[40-2007, added 1985, ch. 253, sec. 2, p. 692; am. 2000, ch. 192, sec. 5, p. 476.]

40-2008. COMPUTATION OF REPLACEMENT HOUSING PAYMENT DURING CONDEMNATION PROCEEDINGS -- ADJUSTMENT AFTER JUDGMENT. In the event an acquisition payment to an owner-occupant for a dwelling cannot be finally determined because condemnation proceedings may become necessary or are pending against the property, the replacement housing payment authorized by section 40-2005(1), Idaho Code, shall be made and computed as though the maximum offer of the state or agency for the property is the actual acquisition payment. In the event the final award and judgment rendered in the condemnation proceedings exceeds the state's highest offer, any difference between the offer and the judgment shall be deducted from the replacement housing payment, but in no event shall the judgment be reduced by more than the amount of the replacement housing payment.

[40-2008, added 1985, ch. 253, sec. 2, p. 693.]

40-2009. RELOCATION PAYMENTS NOT INCOME. No payment received under this chapter shall be considered as income for the purposes of the state personal income tax law or state corporation tax law, nor shall the payments be considered as income or resources to 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 under the state public assistance laws, nor shall the payments be considered as income or resources for the purpose of determining the eligibility or the extent of eligibility of any persons for public assistance.

[40-2009, added 1985, ch. 253, sec. 2, p. 693.]

40-2010. REVIEW OF DETERMINATIONS. Any displaced person aggrieved by a determination as to the eligibility for a payment authorized by this chapter, or the amount of the payment, may have his application reviewed. Proceedings for review of any action taken by the agency pursuant to this section shall be instituted under the provisions of chapter 52, title 67, Idaho Code.

[40-2010, added 1985, ch. 253, sec. 2, p. 693.]

40-2011. EMINENT DOMAIN DAMAGES UNAFFECTED. Nothing contained in this chapter shall be construed as creating, in any condemnation proceedings brought under the power of eminent domain, any element of damages not in existence under the laws of the state of Idaho on July 1, 1985.

[40-2011, added 1985, ch. 253, sec. 2, p. 693.]

40-2012. FEDERAL UNIFORM RELOCATION ASSISTANCE ACT. (1) Regardless of any of the other provisions of title 40, chapter 20, Idaho Code, when any department, agency or instrumentality of the state, or any county, municipality, or other political subdivision, or any other public or private entity undertakes any project or activity subject to the provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, as amended, public laws 91-646, and 100-17, title IV (hereinafter the federal uniform relocation act) which results in the acquisition of real property or in any person or persons being displaced from their homes, businesses, or farms, such state department, agency or instrumentality, county, municipality or other political subdivision, or other public or private entity is hereby authorized to provide relocation assistance, and to make relocation payments to such displaced person and to do such other acts and follow such procedures and practices as may be necessary to comply with the provisions of the federal uniform relocation act.

(2) Any payment made or to be made under the authority granted herein shall be for compensating or reimbursing the displaced person or owner of real property in accordance with the requirements of the federal uniform relocation act and such payments shall not for any purpose be deemed or considered compensation for real property acquired or compensation for damages to remaining property.

(3) The Idaho transportation department is authorized to issue such regulations and procedures as it determines to be necessary or appropriate to carry out the provisions of this chapter.

[40-2012, added 1988, ch. 136, sec. 1, p. 243.]

40-2013. COSTS AND ATTORNEY'S FEES. Any moving and relocation costs which will accrue as a result of a condemnation undertaken pursuant to chapter 7, title 7, Idaho Code, or pursuant to this chapter, shall be paid by the condemner as required by law. If such costs are not paid by the condemner, the owner of the property shall be awarded attorney's fees and costs incurred to recover the same.

[40-2013, added 2000, ch. 192, sec. 6, p. 476.]