

REFERENCE TITLE: ADOT; land acquisition; conveyances; relocation

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2114

Introduced by
Representative Fann

AN ACT

AMENDING SECTIONS 11-963, 11-964, 11-966, 28-7092, 28-7095, 28-7143, 28-7144
AND 28-7146, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF
TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-963, Arizona Revised Statutes, is amended to
3 read:

4 11-963. Payment of moving and related expenses; substitute
5 payments

6 A. The displacing agency, as a part of the cost of the project, shall
7 make a payment to a displaced person, business or farm operation, ~~upon~~ ON
8 proper application to the acquiring agency, for:

9 1. Actual reasonable expenses in moving himself and his family,
10 business, farm operation or other personal property, as determined by the
11 lead agency.

12 2. Actual direct losses of tangible personal property as a result of
13 moving or discontinuing a business or farm operation, but not to exceed an
14 amount equal to the reasonable expenses that would have been required to
15 relocate such property, as determined by the lead agency.

16 3. Actual reasonable expenses, ~~of~~ not to exceed ~~one~~ TWO thousand FIVE
17 HUNDRED dollars, ~~in searching TO SEARCH~~ for a replacement business or farm,
18 ~~provided, however, that in exceptional cases an amount greater than one~~
19 ~~thousand dollars may be authorized by~~ AS the chief executive officer or
20 designee of the lead agency DEEMS REASONABLE.

21 4. Actual reasonable expenses necessary to reestablish a displaced
22 farm, nonprofit organization or small business at its new site, as determined
23 by criteria established by the lead agency, but not to exceed ~~ten~~ TWENTY-FIVE
24 thousand dollars.

25 B. Any displaced person who is eligible for payments under subsection
26 A OF THIS SECTION, who is displaced from a dwelling and who elects to accept
27 the payments authorized by this subsection in lieu of the payments authorized
28 by subsection A OF THIS SECTION may receive a moving expense and dislocation
29 allowance, determined according to a schedule established by the lead agency.

30 C. A displaced person who is eligible for payments under subsection A
31 OF THIS SECTION, who is displaced from the person's place of business or farm
32 operation and who is eligible under criteria established by the lead agency
33 may elect to accept the payment authorized by this subsection instead of the
34 payment authorized by subsection A OF THIS SECTION. This payment consists of
35 a fixed payment in an amount determined by criteria established by the lead
36 agency, except that the payment shall not be less than one thousand dollars
37 nor more than ~~twenty~~ FORTY thousand dollars. A person whose sole business at
38 the displacement property is the rental of the property to others does not
39 qualify for a payment under this subsection.

40 Sec. 2. Section 11-964, Arizona Revised Statutes, is amended to read:

41 11-964. Replacement housing for homeowners

42 A. In addition to payments otherwise authorized by this article, the
43 displacing agency shall make an additional payment, ~~of~~ not more than
44 ~~twenty-two~~ THIRTY-ONE thousand ~~five hundred~~ dollars, ~~to~~ any displaced person
45 who is displaced from a dwelling actually owned and occupied by the displaced
46 person for ~~not fewer than one hundred eighty~~ AT LEAST NINETY days before the

1 initiation of negotiations for the acquisition of the property. This
2 additional payment shall include the following amounts as determined by the
3 acquiring agency:

4 1. The amount, if any, which, when added to the acquisition cost of
5 the dwelling acquired by the displacing agency, equals the reasonable cost of
6 a comparable replacement dwelling.

7 2. The amount, if any, which will compensate the displaced person for
8 any increased interest costs and other debt service costs which the person is
9 required to pay for financing the acquisition of any comparable replacement
10 dwelling. The displacing agency shall pay this amount only if the dwelling
11 acquired by the displacing agency was encumbered by a bona fide mortgage
12 which was a valid lien on the dwelling for ~~not fewer than one hundred eighty~~
13 **AT LEAST NINETY** days immediately before the initiation of negotiations for
14 the acquisition of the dwelling.

15 3. Reasonable and necessary expenses incurred by the displaced person
16 for evidence of title, recording fees and other closing costs incident to the
17 purchase of the replacement dwelling, if normally paid by the buyer, but not
18 including prepaid expenses.

19 B. The **DISPLACING AGENCY SHALL MAKE THE** additional payment authorized
20 by this section ~~shall be made~~ only to a displaced person who purchases and
21 occupies a comparable replacement dwelling within one year after the date on
22 which the person receives final payment from the displacing agency for the
23 acquired dwelling or the date on which the obligation of the displacing
24 agency under section 11-971 is met, whichever is later, except that the
25 displacing agency may extend the period for good cause. If the period is
26 extended, the payment under this section is based on the costs of relocating
27 the person to a comparable replacement dwelling within one year of that date.

28 Sec. 3. Section 11-966, Arizona Revised Statutes, is amended to read:
29 11-966. Replacement housing for tenants

30 A. In addition to amounts otherwise authorized by this article, a
31 displacing agency ~~may~~ **SHALL** make a payment to or for any person who is
32 displaced from any dwelling and who is not eligible to receive a payment
33 under section 11-964 if the dwelling was actually and lawfully occupied by
34 the displaced person for ~~not fewer than~~ **AT LEAST** ninety days immediately
35 before the initiation of negotiations for acquisition of the dwelling, or if
36 displacement is not a direct result of acquisition ~~ninety days immediately~~
37 ~~before such other event~~ as the lead agency prescribes. This payment ~~shall be~~
38 ~~an~~ **CONSISTS OF THE** amount necessary to enable the person to lease or rent a
39 comparable replacement dwelling, ~~for a period of not more than forty-two~~
40 ~~months,~~ but ~~shall~~ not ~~exceed five~~ **MORE THAN SEVEN** thousand two hundred ~~fifty~~
41 dollars, as determined by the acquiring agency. At the discretion of the
42 displacing agency, a payment under this subsection may be made in periodic
43 installments. Computation of a payment under this subsection to a low income
44 displaced person for a comparable replacement dwelling shall take into
45 account the person's income.

1 B. A person who is eligible for a payment under subsection A of this
2 section may elect to apply the payment to a down payment on, and other
3 incidental expenses pursuant to, the purchase of a comparable replacement
4 dwelling. The person, at the discretion of the displacing agency, may be
5 eligible under this subsection for the maximum payment allowed under
6 subsection A of this section, ~~except that, in the case of a displaced~~
7 ~~homeowner who has owned and occupied the displacement dwelling for at least~~
8 ~~ninety days but not more than one hundred eighty days immediately before the~~
9 ~~initiation of negotiations for the acquisition of the dwelling, the payment~~
10 ~~shall not exceed the payment the person otherwise would have received under~~
11 ~~section 11-964, subsection A if the person had owned and occupied the~~
12 ~~displacement dwelling one hundred eighty days immediately before the~~
13 ~~initiation of the negotiations.~~

14 Sec. 4. Section 28-7092, Arizona Revised Statutes, is amended to read:

15 28-7092. Land acquisition; transportation purposes

16 A. In the name of this state, the director may acquire, either in fee
17 or a lesser estate or interest, real property that the director considers
18 necessary for transportation purposes by purchase, donation, dedication,
19 exchange, condemnation or other lawful means with monies from the state
20 highway fund or any other monies appropriated to the department.

21 B. Property acquired for transportation purposes includes land or any
22 interest in the land necessary for:

23 1. Rights-of-way, campsites, roadside rest areas, water or material
24 needed in the construction, improvement or maintenance of state highways,
25 airports, runways, taxiways or other property under the jurisdiction,
26 possession or control of the department.

27 2. Spoil banks, rock quarries, gravel pits, sand or earth borrow pits.

28 3. Rights-of-way to the place where material required in the
29 construction, improvement or maintenance of state highways, airports, runways
30 or taxiways may be located.

31 4. Offices, shops, maintenance camps, storage yards, inspection or
32 weighing stations or radio transmitter or repeater stations.

33 5. Rights-of-way for access to any location prescribed in this
34 subsection.

35 6. Relocation of existing utility or irrigation facilities and
36 rights-of-way that are required to be relocated to facilitate a
37 transportation purpose.

38 7. Legal access to property acquired by the director through adjacent
39 property.

40 8. Environmental mitigation or banking credits, if necessary to
41 satisfy the requirements of federal or state environmental laws or
42 regulations or requirements to obtain a permit, grant or right to use
43 property from a federal or state agency. For the purposes of this paragraph:

44 (a) "Banking credits" means payment in lieu of costs of acquisition,
45 preservation or maintenance of habitat or other environmentally protected
46 locations.

1 (b) "Environmental mitigation" means replacement of habitat or other
2 environmentally protected locations that are taken for or affected by a
3 transportation facility.

4 9. PRIVATE LEGAL ACCESS TO PROPERTY WHEN THE ACCESS HAS BEEN SEVERED
5 AS A RESULT OF A TAKING FOR TRANSPORTATION PURPOSES.

6 C. If part of a parcel of land is to be taken for transportation
7 purposes and the remainder is to be left in such shape or condition as to be
8 of little value to its owner or to give rise to claims or litigation
9 concerning severance or other damage, the director may acquire the whole
10 parcel by any means provided in subsection A OF THIS SECTION, and the
11 remainder may be sold, exchanged for other property needed for transportation
12 purposes or used for rights-of-way for relocated utility or irrigation
13 facilities.

14 Sec. 5. Section 28-7095, Arizona Revised Statutes, is amended to read:
15 28-7095. Conveyance of property not needed for transportation
16 purposes

17 A. The director may dispose of real property or any right, title or
18 interest in the real property if the director determines that it is not
19 needed or used for transportation purposes. After the establishment, laying
20 out, substantial completion of a transportation improvement or abolishment of
21 a transportation improvement by formal action of the transportation board,
22 the director may convey the real property or any interest in the real
23 property that was acquired pursuant to this article and that the director
24 determines is not necessary for state transportation purposes.

25 B. Except as provided in section 28-7099, the director may convey the
26 real property described in subsection A of this section to an agency of the
27 federal government, this state or a county, city or town of this state
28 without a public sale if the director considers the conveyance to be in the
29 public interest and if the real property is to be used for such a specific
30 public purpose. If the property is not used for a highway purpose, the
31 agency shall pay the department for the conveyance based on an appraisal
32 within twelve months of the date of conveyance establishing the fair market
33 value of the property to be conveyed. If the property conveyed to an agency
34 is to be used for a specific highway purpose, the agency shall reimburse the
35 department for its expenditures for the property. If the property is not
36 used for a highway purpose, the property shall revert to the department. If
37 the director determines any property conveyed under this section is needed by
38 the department for a transportation purpose, the department may acquire the
39 property from the agency at a cost equal to the amount paid by the agency, or
40 the fair market value at the time of the repurchase by the department,
41 whichever is less.

42 C. The director may grant an easement to a state or local agency for
43 property to be used for a specific highway purpose, on terms and conditions
44 acceptable to the director, for no payment to the department. The agency
45 shall bear all liability that may be attributed to the department for
46 incidents that occur during the period of the easement and the agency shall

1 bear all costs of maintaining the property. If the property is not used for
 2 a highway purpose, the department may terminate the easement as to any
 3 portion of the property that is not used for a highway purpose. The easement
 4 terminates if the director determines that the property is needed by the
 5 department for a highway purpose.

6 D. The director may convey other marketable property to the highest
 7 responsible bidder at a public auction or by direct sale after at least
 8 thirty days' notice in a newspaper of general circulation in the county in
 9 which the property is located. If the director elects to convey property by
 10 a direct sale, and receives more than one offer before the termination of the
 11 thirty day notice period, the director shall sell the property at public
 12 auction. At least one fee appraisal or one in-house appraisal is required
 13 for property that is offered to the public. The director shall disclose the
 14 amount of the low appraisal before a public auction. If at a public auction
 15 the amount of the highest responsible bid does not equal or exceed the amount
 16 of the low appraisal, the director shall advise the bidders that the amount
 17 of the low appraisal has not been met and shall continue the bidding until
 18 the amount of the highest responsible bid equals or exceeds the amount of the
 19 low appraisal. If the highest responsible bid does not equal or exceed the
 20 amount of the low appraisal, the director shall reject all bids. If the
 21 director is unable to sell real property pursuant to this subsection for an
 22 amount that equals or exceeds the low appraisal, the director may convey the
 23 real property by direct sale after at least thirty days' notice in a
 24 newspaper of general circulation in the county in which the real property is
 25 located at an amount that is at least equal to eighty per cent of the low
 26 appraisal, except that, if the director receives more than one offer before
 27 the termination of the thirty day notice period in an amount that is at least
 28 equal to eighty per cent of the low appraisal, the director shall sell the
 29 real property at public auction.

30 E. A sale pursuant to subsection B or D of this section may be made
 31 for cash or on terms of at least twenty per cent down with the balance
 32 payable in annual, BIENNIAL, QUARTERLY or monthly installments for ten years,
 33 and the unpaid balance bears interest at a rate determined by the director.

34 F. The director may dispose of property by quitclaim deed to adjacent
 35 property owners or the underlying fee owner if the property has no market
 36 value or a net value of ten thousand dollars or less without a public auction
 37 or thirty day notice period. The director may notify adjacent property
 38 owners or the underlying fee owner that the estimated market value of the
 39 property may be reduced by up to twenty per cent, that the director may
 40 accept an offer between eighty per cent and one hundred per cent of the
 41 estimated market value and that, if the adjacent property owner or underlying
 42 fee owner is interested in acquiring the property, the adjacent property
 43 owner or underlying fee owner must submit a written offer to the director
 44 within sixty days after the date of the notice. If the director does not
 45 receive an offer within sixty days after the date of the notice, the director
 46 may dispose of the property at the best price the director can obtain for the

1 property pursuant to procedures established by the director. For the
2 purposes of this subsection, "net value" means the estimated market value of
3 the property reduced by the cost to sell the property and the cost of
4 continued maintenance of the property.

5 G. The director may:

6 1. Execute all deeds or conveyances necessary to convey any real
7 property or interest in the real property to be conveyed under this section
8 and shall sell any real property or interest in real property for the highest
9 responsible bid, the direct sale price or the appraised market value of the
10 property, as applicable.

11 2. Assess a fee for the costs of preparing and executing any
12 conveyance under this section.

13 3. Either:

14 (a) Insert in the deed or conveyance conditions, covenants, exceptions
15 and reservations as the director deems to be in the public interest.

16 (b) Convey in fee simple absolute.

17 H. The director shall notify the county assessor and county treasurer
18 of any property disposed of or quitclaimed pursuant to this section within
19 thirty days after the close of escrow. Proper notice includes the legal
20 description of property being conveyed, the name and address of the new
21 property owner and legal description of the conveyed property and the name
22 and address of a person or persons who are identified as the correct
23 recipients of the property tax bill.

24 I. It is conclusively presumed in favor of any purchaser for value and
25 without notice of any real property or interest in the real property conveyed
26 pursuant to this section that the department acted within its lawful
27 authority in acquiring the property and that the director acted within the
28 director's lawful authority in executing a deed, conveyance or lease
29 authorized by this article.

30 J. The director may contract with a licensed real estate broker to
31 assist in any disposition of property under this section or pay a commission
32 to a licensed real estate broker whose client completes a purchase of
33 property under this section. The director shall determine the rate of
34 commission paid to the broker. The director may pay the licensed real estate
35 broker from proceeds received under this section unless the broker is the
36 purchaser or lessee or the purchaser is another governmental agency.

37 Sec. 6. Section 28-7143, Arizona Revised Statutes, is amended to read:

38 28-7143. Moving and related expenses; payment; substitute
39 payments

40 A. As a part of the cost of construction and on proper application to
41 the department, the department shall pay to a displaced person, business or
42 farm operation:

43 1. Actual reasonable expenses in moving the displaced person and the
44 displaced person's family, business, farm operation or other personal
45 property.

1 2. Actual direct losses of tangible personal property as a result of
2 moving or discontinuing a business or farm operation, but not more than the
3 reasonable expenses that would have been required to relocate the property as
4 determined by the department.

5 3. Actual reasonable expenses in searching for a replacement business
6 or farm.

7 4. Actual reasonable expenses necessary to reestablish a displaced
8 farm, nonprofit organization or small business at its new site pursuant to
9 criteria established by the department, but not more than twenty-five
10 thousand dollars.

11 B. A displaced person who is eligible for payments under subsection A
12 OF THIS SECTION, who is displaced from a dwelling and who elects to accept
13 the payments authorized by this subsection in lieu of the payments authorized
14 by subsection A OF THIS SECTION may receive an expense and dislocation
15 allowance determined according to a schedule established by the director.

16 C. A displaced person who is eligible for payments under subsection A
17 OF THIS SECTION, who is displaced from the person's place of business or farm
18 operation and who is eligible under criteria established by the department
19 may elect to accept, instead of the payment authorized by subsection A OF
20 THIS SECTION, a fixed payment in an amount that is determined according to
21 criteria established by the department and that is at least one thousand
22 dollars but not more than ~~twenty~~ FORTY thousand dollars. A person whose sole
23 business at the displacement dwelling is the rental of the property to others
24 does not qualify for a payment under this subsection.

25 Sec. 7. Section 28-7144, Arizona Revised Statutes, is amended to read:
26 28-7144. Replacement dwelling; additional payment

27 A. In addition to other payments authorized by this article, the
28 displacing agency shall pay not more than ~~twenty-two~~ THIRTY-ONE thousand ~~five~~
29 ~~hundred~~ dollars to a displaced person who is displaced from a dwelling
30 actually owned and occupied by the displaced person for at least ~~one hundred~~
31 ~~eighty~~ NINETY days before the initiation of negotiations for the acquisition
32 of the property. This additional payment shall include the following
33 elements:

34 1. The amount, if any, that when added to the acquisition cost of the
35 dwelling acquired by the displacing agency equals the reasonable cost of a
36 comparable replacement dwelling.

37 2. The amount, if any, that will compensate the displaced person for
38 any increased interest costs and other debt service costs that the person is
39 required to pay for financing the acquisition of any comparable replacement
40 dwelling, only if the dwelling acquired by the displacing agency was
41 encumbered by a bona fide mortgage that was a valid lien on the dwelling for
42 at least ~~one hundred eighty~~ NINETY days immediately before the initiation of
43 negotiations for the acquisition of the dwelling.

44 3. Reasonable expenses incurred by the displaced person for evidence
45 of title, recording fees and other closing costs incidental to the purchase
46 of the replacement dwelling except prepaid expenses.

1 B. The displacing agency shall make the additional payment authorized
2 by this section only to a displaced person who purchases and occupies a
3 decent, safe and sanitary replacement dwelling within one year after the date
4 on which the person receives final payment from the displacing agency for the
5 acquired dwelling or the date on which the obligation of the displacing
6 agency under section 28-7152 is met, whichever is later, except that the
7 displacing agency may extend this period for good cause. If the period is
8 extended, the payment under this section is based on the costs of relocating
9 the person to a comparable replacement dwelling within one year of that date.

10 Sec. 8. Section 28-7146, Arizona Revised Statutes, is amended to read:

11 28-7146. Replacement housing for tenants

12 A. In addition to amounts otherwise authorized by this article, a
13 displacing agency shall pay to or for a person who is displaced from a
14 dwelling and who is not eligible to receive a payment under section 28-7144
15 if the dwelling was actually and lawfully occupied by the displaced person
16 for at least ninety days immediately before either:

17 1. The initiation of negotiations for acquisition of the dwelling.

18 2. In a case in which displacement is not a direct result of
19 acquisition, another event as the department prescribes.

20 B. Payment under subsection A of this section consists of the amount
21 necessary to enable the person to lease or rent for a period of not more than
22 forty-two months a comparable replacement dwelling but not more than ~~five~~
23 ~~SEVEN~~ thousand two hundred ~~fifty~~ dollars. At the discretion of the
24 displacing agency, a payment under this subsection may be made in periodic
25 installments. Computation of a payment under this subsection to a low income
26 displaced person for a comparable replacement dwelling shall take into
27 account the person's income.

28 C. A person who is eligible for a payment under subsection A of this
29 section:

30 1. May elect to apply the payment to a down payment on and other
31 incidental expenses relating to the purchase of a decent, safe and sanitary
32 replacement dwelling.

33 2. At the discretion of the displacing agency, may be eligible under
34 this subsection for the maximum payment allowed under subsection B of this
35 section, except that the payment to a displaced homeowner who has owned and
36 occupied the displacement dwelling for at least ninety days ~~but not more than~~
37 ~~one hundred seventy-nine days~~ immediately before the initiation of
38 negotiations for the acquisition of the dwelling shall not exceed the payment
39 the person otherwise would have received under section 28-7144, subsection A
40 if the person had owned and occupied the displacement dwelling ~~one hundred~~
41 ~~eighty~~ ~~NINETY~~ days immediately before the initiation of the negotiations.