

INELIGIBILITY OF ILLEGAL ALIENS FOR RELOCATION  
ASSISTANCE

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JUNE 23, 1997.—Ordered to be printed  
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Mr. SHUSTER, from the Committee on Transportation and  
Infrastructure, submitted the following

REPORT

[To accompany H.R. 849]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 849) to prohibit an alien who is not lawfully present in the United States from receiving assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. DISPLACED PERSONS NOT ELIGIBLE FOR ASSISTANCE.**

(a) **IN GENERAL.**—Title I of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) is amended by adding at the end the following:

**“SEC. 104. DISPLACED PERSONS NOT ELIGIBLE FOR ASSISTANCE.**

“(a) **IN GENERAL.**—Except as provided in subsection (c), a displaced person shall not be eligible to receive relocation payments or any other assistance under this Act if the displaced person is an alien not lawfully present in the United States.

“(b) **DETERMINATIONS OF ELIGIBILITY.**—

“(1) **ISSUANCE OF REGULATIONS.**—Not later than 6 months after the date of the enactment of this section, and after providing notice and an opportunity for public comment, the head of the lead agency shall issue regulations to carry out subsection (a).

“(2) **CONTENTS OF REGULATIONS.**—Regulations issued under paragraph (1) shall—

“(A) prescribe the processes, procedures, and information that a displacing agency must use in determining whether a displaced person is an alien not lawfully present in the United States;

“(B) prohibit a displacing agency from discriminating against any displaced person;

“(C) ensure that each eligibility determination is fair and based on reliable information; and

“(D) prescribe standards for a displacing agency to apply in making determinations relating to exceptional and extremely unusual hardship under subsection (c).

“(c) EXCEPTIONAL AND EXTREMELY UNUSUAL HARDSHIP.—If a displacing agency determines by clear and convincing evidence that a determination of the ineligibility of a displaced person under subsection (a) would result in exceptional and extremely unusual hardship to an individual who is the displaced person’s spouse, parent, or child and who is a citizen of the United States or an alien lawfully admitted for permanent residence, the displacing agency shall provide relocation payments and other assistance to the displaced person under this Act if the displaced person is otherwise eligible for such assistance.

“(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to affect any rights available to a displaced person under any other provision of Federal or State law.”.

#### SEC. 2. DUTIES OF LEAD AGENCY.

Section 213(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633(a)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) provide, in consultation with the Attorney General (acting through the Commissioner of the Immigration and Naturalization Service), through training and technical assistance activities, information developed with the Attorney General (acting through the Commissioner) on proper implementation of section 104;

“(3) ensure that displacing agencies implement section 104 fairly and without discrimination;”.

#### PURPOSE AND SUMMARY

The purpose of this legislation is to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) to prohibit individuals who are aliens not lawfully present in the United States from receiving relocation assistance.

#### NEED FOR LEGISLATION

The URA provides a statutory scheme of compensation to any person who is displaced from property as a result of the acquisition of that property for a Federal program or project or for a project which uses Federal financial assistance. Displaced people entitled to compensation are property occupants including: real property owners; residential tenants; and operators of businesses and farms. To the extent that the statutory scheme applies to real property owner/occupants, it is a legislative supplement to the compensation required by the Just Compensation clause of the Fifth Amendment to the United States Constitution. For tenants and business operators who are not real property owners, recovery under the Just Compensation clause is extremely rare and the URA will typically provide the only compensation of any significance. In all cases URA compensation is based upon a regulatory formula taking into account such factors as moving costs, length of occupancy and rent or mortgage differentials.

H.R. 849, will deny relocation compensation to any individual who is an alien “not lawfully present in the United States,” *i.e.* an illegal alien. It was prompted by local press reports from Ocean-side, California detailing \$12,000 in compensation and assistance

to an allegedly illegal alien displaced from public housing by condemnation of the building for a local community AIDS center. The Immigration and Naturalization Service is currently investigating this person's immigration status. There are also press reports of a similar instance in New Jersey.

#### SECTION-BY-SECTION ANALYSIS

As ordered reported by the Committee, H.R. 849 contains the following sections:

*Section 1.*—Section 1 amends the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 by adding a new section to the law, Section 104. The provisions of new Section 104 are as follows:

Section 104(a) prohibits relocation payments to any displaced person who is an illegal alien, that is, one who is “not lawfully present” in the United States. The Committee understands that “not lawfully present” is a term of art in immigration law and is limited to those who are unlawfully present in the United States after the expiration of the period of stay authorized by the Attorney General or are present in the United States without being admitted or paroled. Those who are lawfully present in the United States include both those with American citizenship and those who are lawful residents.

The Committee also understands that the phrase “not lawfully present” is limited to those contexts where an alien is illegally in the United States. The phrase should not be, and has not been, interpreted to mean that relocation assistance should be denied to those who lawfully own property in the United States and are not in the United States unlawfully at the time eligibility for relocation assistance is determined. A foreign national who resides outside the United States, or an American citizen residing outside the United States, but who owns property within the United States will not be denied relocation assistance by this provision.

Section 104(b) directs the Department of Transportation to issue regulations implementing Section 104(a) within 6 months of enactment of the bill into law. In issuing these regulations the Department must provide for public notice and comment. The regulations shall prescribe the processes, procedures and information all agencies will use in determining whether a displaced person is ineligible for relocation payments under subsection (a). The regulations will also prohibit discrimination and will be required to ensure that all individual eligibility determinations are based on reliable information.

It is not the Committee's intent to specify precisely the content of such regulations. However, the Committee anticipates that these regulations will conform to the following principles:

(1) The regulations for determining eligibility for relocation assistance based upon immigration status will be applied uniformly to all applicants. All applicants will be required to establish eligibility by demonstrating citizenship or lawful residence and uniform standards for establishing eligibility shall apply to all applicants.

(2) The regulations will establish procedures and standards for the determination of eligibility for relocation benefits of those whose immigration status has yet to be determined, such as asy-

lum seekers. The Committee intends that the regulations shall establish standards that every displacing agency would apply to such cases. All displacing agencies should treat similarly situated individuals in a similar fashion.

(3) The regulations will adopt uniform evidentiary standards which displacing agencies will use to establish eligibility for relocation assistance. The Committee expects that the regulations will list documents a displacing agency may request as evidence of lawful residency or citizenship. For example, 8 U.S.C. § 274A of the Immigration and Nationality Act lists documents that employers may request to determine a person's eligibility for employment. A comparable list could be developed for the relocation assistance context.

(4) The regulations will incorporate existing regulations relating to administrative appeals from adverse determinations, such as those set forth in 49 CFR 24.10. These regulations derive from Section 213(b)(3) of the URA which the Committee intends to apply to eligibility determinations under Section 104. The Committee also anticipates that relocation notices required pursuant to 49 CFR 24.203 will clearly indicate that the right to appeal includes appeal of an eligibility determination under Section 104.

The Committee notes that, in requiring that the regulations provide for the determination of eligibility for relocation assistance on the basis of "reliable evidence," the Committee is speaking to the nature and quantum of evidence necessary and suitable for each individual eligibility determination. It is not the Committee's intent that the Department of Transportation should assess the overall reliability of existing databases and information systems of the Immigration and Naturalization Service (INS). To the contrary, the Committee anticipates that the regulations will incorporate the expertise of the INS in determining immigration status and will rely upon existing information and databases developed by the INS, such as the System for Alien Verification of Eligibility established in Section 121(a) of the Immigration Reform and Control Act of 1986, or comparable systems.

Section 104(c) provides a safety net for those highly unusual and rare situations where, in the case of a person not lawfully present in the United States, failure to provide compensation for displacement would cause exceptional and extremely unusual hardship to a displaced alien's spouse, child or parent who is a United States citizen or a lawful resident alien. In such rare circumstances it is appropriate to waive the ineligibility that is otherwise applicable under subsection (a) even though the recipient is an illegal alien.

The Committee intends that this exemption be used very sparingly. Accordingly, the Committee has adopted the hardship standard established for the cancellation of removal under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 240A(b)(1)(D). A level of hardship that would merit cancellation of removal should also merit displacement compensation under the Uniform Relocation Assistance Act for those not lawfully present in the United States if they otherwise qualify as a displaced person. The Committee anticipates that in providing guidance to displacing agencies for implementing subsection (c) the lead

agency will be informed and guided by the standards developed in the interpretation of the parallel immigration provisions.

Displacement always causes some degree of hardship; the exemption described in subsection (c) is intended to be applied to those situations which are truly extraordinary and warrant an exception. Thus, the Committee intends that the agency require clear and convincing evidence of harm to an illegal alien's spouse, child or parent (who is a United States citizen or lawfully resident alien) that is substantially beyond that which would ordinarily result from displacement. For example, the mere fact that the displaced person is an illegal alien who has a spouse, parent or child of U.S. citizenship would not, by itself, provide a basis for exempting the alien from the operation of the provisions of this Act. Indeed, it was the provision of compensation in these circumstances under existing law that was a prime motivation for this legislation. Nor would the Committee anticipate that social circumstances, such as having become acclimated to life in the United States or a particular locality, would constitute the requisite hardship.

The Committee shares the Judiciary Committee's view that:

\* \* \* our immigration law is generally clear that an alien may not derive benefits or compensation through his or her child, parent or spouse who is a United States citizen. The availability in truly exceptional cases or relief under [subsection (c)] must not undermine this or other fundamental immigration enforcement policies.

House Rpt. 104-828, at 213-14 (104th Cong. 2d Sess.) (referring to Section 240A as enacted in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

Despite the narrowness of this exemption, the Committee believes that it is important to include such a provision in law for two reasons. First, an exemption from ineligibility for compensation for exceptional and extremely unusual cases is necessary to establish consistency between this legislation and general immigration law. Second, the Committee recognizes that extreme conditions which cannot presently be foreseen can arise that would warrant an exemption.

Section 104(d) makes clear that nothing in the provisions of H.R. 849 in any way replaces or modifies other rights that a displaced person might have under Federal or state laws other than the URA. To the extent that illegal aliens have a real property interest for which they may seek compensation under the Just Compensation clause of the United States Constitution, under a relevant state constitution, or under other applicable Federal or state laws, they remain free to do so. The sole intention of H.R. 849 is to eliminate the Federal right to relocation assistance under the URA.

*Section 2.*—Section 2 requires the Secretary of Transportation, in consultation with the Attorney General, to provide training to other agencies on the proper implementation of Section 104 and to ensure that Section 104 is implemented fairly and without discrimination.

## COMMITTEE CONSIDERATION

The Committee on Transportation and Infrastructure held no hearings on the legislation. The Committee, at a meeting on June 11, 1997, a quorum being present, discharged the Subcommittee on Surface Transportation from further consideration of H.R. 849, unanimously approved the bill, as amended, by voice vote and ordered it reported.

## ROLLCALL VOTE

Clause 2(1)(2)(A) and (B) of rule XI requires that a majority of a committee be present in order to report a measure; and that each committee report include the total number of votes cast for and against on each roll call vote on a motion to report the measure and the names of those members voting for and against. On June 11, 1997, the Committee on Transportation and Infrastructure met in open markup wherein Mr. Petri moved to report H.R. 849, as amended, favorably to the whole House. The bill, as amended, was favorably reported by voice vote, a quorum being present.

## COMMITTEE OVERSIGHT FINDINGS

Clause 2(1)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The Transportation and Infrastructure Committee has no specific oversight findings.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE  
ON GOVERNMENT REFORM AND OVERSIGHT

Clause 2(1)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on Transportation and Infrastructure has received no such findings or recommendations from the Committee on Government Reform and Oversight.

## COMMITTEE COST ESTIMATE

Clause 2(1)(3)(B) of rule XI requires each committee report that accompanies a measure providing new budget authority, new spending authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended. H.R. 849 does not provide new budget authority, spending authority, or new credit authority as defined by that act; nor does it change revenues or tax expenditures.

Clause 7(a) of rule XIII requires committees to include in reports accompanying measures their own estimate of the costs to be incurred by the United States by carrying out the legislation. The Committee on Transportation and Infrastructure adopts as its own, the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATES

Clause 2(1)(3)(C) of rule XI requires each committee report accompanying a measure to include the estimate and comparison prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974, if timely submitted. The following is the Congressional Budget Office cost estimate:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 20, 1997.*

Hon. BUD SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 849, a bill to prohibit an alien who is not lawfully present in the United States from receiving assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs), and Karen L. McVey (for the state and local impact).

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

Enclosure.

*H.R. 849—A bill to prohibit an alien who is not lawfully present in the United States from receiving assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*

CBO estimates that implementing H.R. 849 would cost the federal government less than \$500,000 over the next year or two, assuming appropriation of the necessary amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 849 would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no significant costs on state, local, or tribal governments.

H.R. 849 would prevent persons who are not lawfully present in the United States from receiving relocation payments or other assistance when real property they occupy is acquired by a federal agency or with federal financing. The bill would require the U.S. Department of Transportation (DOT) to promulgate regulations within six months of enactment to implement the new law, including rules for determining whether a displaced person is lawfully present in the country and standards for judging when exceptions should be made for unusual hardship. DOT also would be responsible for providing agencies with information on proper implementation of the law through training and technical assistance.

Based on information provided by DOT and other agencies, and assuming appropriation of the necessary amounts, CBO estimates that DOT and other federal agencies would spend less than

\$500,000 to develop the necessary regulations, guidelines, and training programs to implement H.R. 849. We expect that the bill would have little or no effect on total property acquisition costs because so few transactions are likely to involve aliens who reside illegally in this country.

The bill would place a new requirement on state, local, and, in some circumstances, tribal entities carrying out programs or projects with federal financial assistance that result in the displacement of persons. As a condition of receiving such assistance the affected entities would have to determine whether displaced persons are lawfully present in the U.S. Based on discussions with the U.S. Departments of Transportation, and Housing and Urban Development, the Immigration and Naturalization Service, and affected agencies, CBO estimates that the additional administrative costs to state, local, and tribal governments would be minimal.

The CBO staff contacts for this estimate are Deborah Reis (for federal costs), and Karen L. McVey (for the state and local impact). This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (2)(1)(4) of rule XI of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### **UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970**

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#### TITLE I—GENERAL PROVISIONS

\* \* \* \* \*

#### **SEC. 104. DISPLACED PERSONS NOT ELIGIBLE FOR ASSISTANCE.**

(a) *IN GENERAL.*—*Except as provided in subsection (c), a displaced person shall not be eligible to receive relocation payments or any other assistance under this Act if the displaced person is an alien not lawfully present in the United States.*

(b) *DETERMINATIONS OF ELIGIBILITY.*—

(1) *ISSUANCE OF REGULATIONS.*—*Not later than 6 months after the date of the enactment of this section, and after providing notice and an opportunity for public comment, the head of*



*the lead agency shall issue regulations to carry out subsection (a).*

*(2) CONTENTS OF REGULATIONS.—Regulations issued under paragraph (1) shall—*

*(A) prescribe the processes, procedures, and information that a displacing agency must use in determining whether a displaced person is an alien not lawfully present in the United States;*

*(B) prohibit a displacing agency from discriminating against any displaced person;*

*(C) ensure that each eligibility determination is fair and based on reliable information; and*

*(D) prescribe standards for a displacing agency to apply in making determinations relating to exceptional and extremely unusual hardship under subsection (c).*

*(c) EXCEPTIONAL AND EXTREMELY UNUSUAL HARDSHIP.—If a displacing agency determines by clear and convincing evidence that a determination of the ineligibility of a displaced person under subsection (a) would result in exceptional and extremely unusual hardship to an individual who is the displaced person’s spouse, parent, or child and who is a citizen of the United States or an alien lawfully admitted for permanent residence, the displacing agency shall provide relocation payments and other assistance to the displaced person under this Act if the displaced person is otherwise eligible for such assistance.*

*(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to affect any rights available to a displaced person under any other provision of Federal or State law.*

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TITLE II—UNIFORM RELOCATION ASSISTANCE

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DUTIES OF LEAD AGENCY

SEC. 213. (a) The head of the lead agency shall—

(1) develop, publish, and issue, with the active participation of the Secretary of Housing and Urban Development and the heads of other Federal agencies responsible for funding relocation and acquisition actions, and in coordination with State and local governments, such regulations as may be necessary to carry out this Act;

(2) provide, in consultation with the Attorney General (acting through the Commissioner of the Immigration and Naturalization Service), through training and technical assistance activities, information developed with the Attorney General (acting through the Commissioner) on proper implementation of section 104;

(3) ensure that displacing agencies implement section 104 fairly and without discrimination;

[(2)] (4) ensure that relocation assistance activities under this Act are coordinated with low-income housing assistance programs or projects by a Federal agency or a State or State agency with Federal financial assistance;

[(3)] (5) monitor, in coordination with other Federal agencies, the implementation and enforcement of this Act and report to the Congress, as appropriate, on any major issues or problems with respect to any policy or other provision of this Act; and

[(4)] (6) perform such other duties as may be necessary to carry out this Act.

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