

LAWS
OF THE
STATE OF DELAWARE

ONE HUNDRED AND THIRTY-FIFTH

GENERAL ASSEMBLY

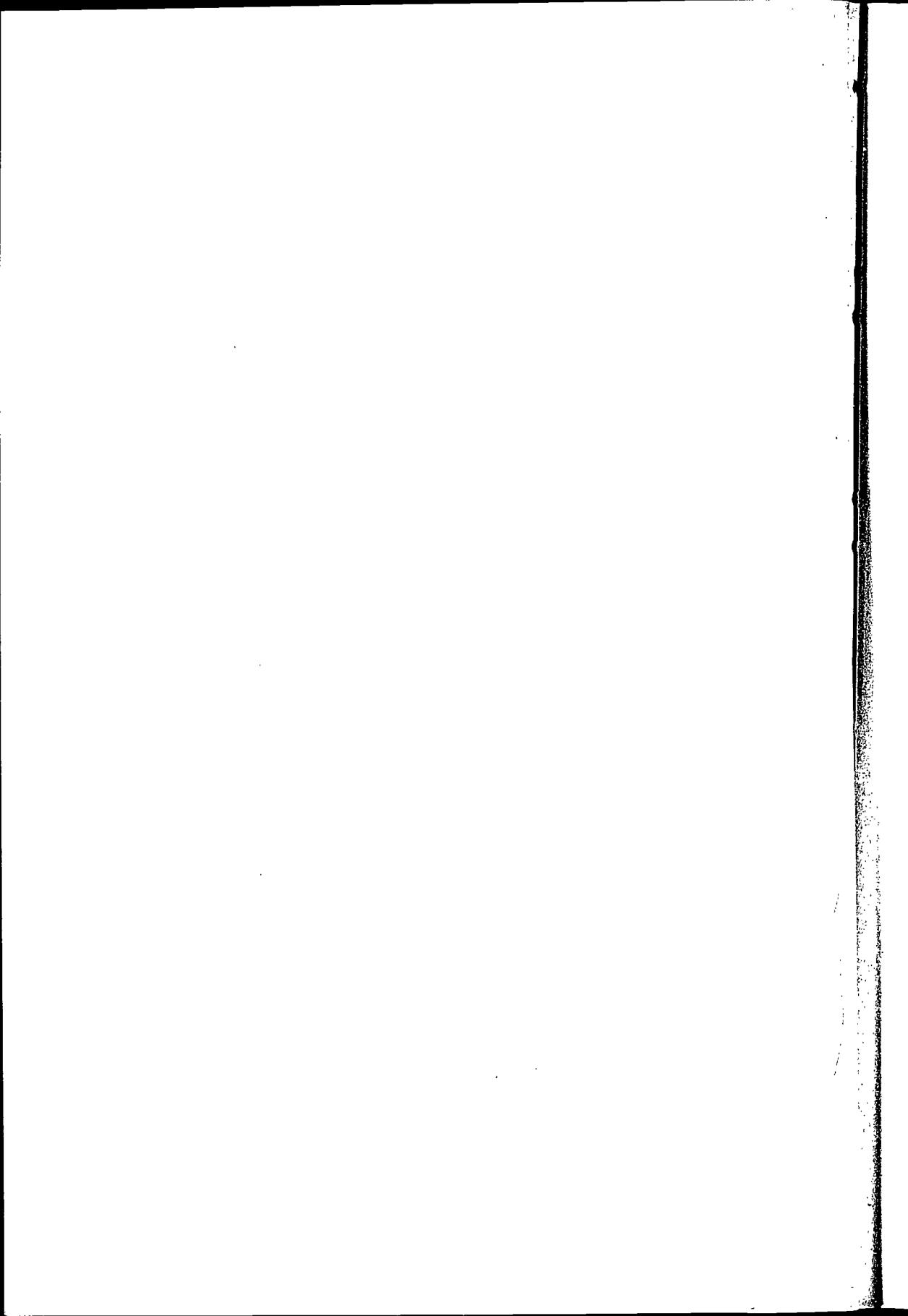
FIRST SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 10, A.D.
1989

SECOND SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 9, A.D.
1990

VOLUME LXVII



CHAPTER 1

FORMERLY

HOUSE BILL NO. 60

AN ACT TO AMEND SUBCHAPTER 1, CHAPTER 3, TITLE 10, DELAWARE CODE, RELATING TO THE COURT OF CHANCERY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §307, Subchapter 1, Chapter 3, Title 10, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new Section 307 to read as follows:

§307. Additional Vice Chancellors

There shall be three Vice Chancellors in addition to the Chancellor and Vice Chancellor specifically required by the provisions of Article IV, §2 of the Constitution."

Approved January 31, 1989.

CHAPTER 2

FORMERLY

SENATE BILL NO. 32

AN ACT TO AMEND CHAPTER 19, TITLE 7, DELAWARE CODE, RELATING TO UNLAWFUL TAKING OF SHELLFISH.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §1904(b), Chapter 19, Title 7, Delaware Code, by inserting after the word "shellfish" and before the words "for commercial" the following:

", except crabs,".

Approved February 8, 1989.

CHAPTER 3

FORMERLY

SENATE BILL NO. 63

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE COLLECTION OF UNEMPLOYMENT BENEFITS OVERPAYMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §3325, Title 19 of the Delaware Code by adding the following at the end of the last paragraph of §3325: "No action shall be taken by the Department to collect in whole or in part an overpayment of benefits to any person after a period of 5 years from the date on which the overpayment was made by the Department."

Section 2. Neither the State nor any State agency shall continue to collect after the effective date of this Act any overpayment or alleged overpayment of unemployment benefits which were made or alleged to have been made to any person prior to January 1, 1984.

Approved February 8, 1989.

CHAPTER 4

FORMERLY

SENATE BILL NO. 18
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT, BEING CHAPTER 288, VOLUME 64, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF LAUREL" TO CONFER UPON THE TOWN COUNCIL OF THE TOWN OF LAUREL CERTAIN POWERS RELATING TO THE TAXATION OF REAL ESTATE TRANSFERS WITHIN THE TOWN OF LAUREL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Chapter 288, Volume 64, Laws of Delaware, as amended, by adding thereto a new Section following Section 30, to be designated as Section 30A, to read as follows:

"Taxation of Real Estate Transfers

Section 30A.

(a) The Town Council of the Town of Laurel, in addition to all other powers conferred upon it by this Act, shall have the power and authority by ordinance or ordinance to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the Town Council to be paid by the transferor or transferee upon the transfer of real property or any interest in real property situate within the corporate limits of the Town of Laurel, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur; provided however, that no tax levied under this Section shall exceed one percent (1%) of the sale price (including the value of any assumed mortgage or mortgages); and provided further, that no tax shall be levied upon an organization exempted from ad valorem real estate taxes.

(b) No ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property authorized under this Section shall become effective unless it receives an affirmative vote of two thirds (2/3) of all the elected members of the Town Council of the Town of Laurel. If the taxing power authority granted under this Section shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds, in and for Sussex County, shall not receive for record any document subject to such tax unless such stamps are affixed thereto.

(c) The Town Council of the Town of Laurel may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this Section.

(d) No tax levied under this Section shall exceed one percent (1%) of the sale price (including the value of any assumed mortgage or mortgages) or of the fair market value of the real property so transferred; and provided, however, that no tax shall be imposed upon an organization which is exempted from ad valorem taxes. The provisions of Section 5401 and Section 5403, Paragraph 54, Title 30, Del. C., shall be applicable to any realty transfer tax imposed pursuant to this Act.

(e) The Town Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, in and for Sussex County, and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Section.

(f) This Act shall not become effective until it shall be approved by a majority of the qualified voters at a Special Election to be held pursuant to a Resolution adopted by the Town Council of the Town of Laurel. The Town Council shall give notice of the Special Election by printing a copy of the Resolution calling the Special Election in at least two (2) issues of a newspaper having a general circulation within the corporate limits of the Town of Laurel within thirty (30) days immediately preceding the date of such Special Election. At the said Special Election, every person who is a bona fide resident of the Town of Laurel and who would be entitled at the time of the holding of the said Special Election pursuant to the provisions of this Act to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day of the Special Election to be held pursuant to the provisions of this Act may vote at the said Special Election regardless of whether such person is registered to

vote in the Annual Municipal Election. The Special Election shall be held by a Board of Election to be appointed by the Mayor of the Town of Laurel at least two (2) weeks before such Special Election. The Board of Election shall consist of an Inspector of the Special Election and such Judges as shall be appointed by the Mayor of the Town of Laurel. If a majority of the votes cast at the Special Election shall be in favor of the transfer tax authorized by this Act, the tax may be levied and collected as provided for in this Act. The Board of Election holding the Special Election shall meet immediately after the close of such Special Election to ascertain the result and shall certify the result to the Town Council. The hours of the Special Election shall be from one o'clock in the afternoon, prevailing time, until eight o'clock in the evening, prevailing time, and such persons who are in the polling place at eight o'clock in the evening, prevailing time, shall be entitled to vote even though such votes may be cast after eight o'clock in the evening, prevailing time. If the majority of the votes cast at any Special Election held under this Act shall be against the levying of the tax authorized by this Act, the proposition shall not again be submitted to the qualified voters until the expiration of ninety (90) days from the date of the said Special Election."

Approved March 30, 1989.

CHAPTER 5

FORMERLY

SENATE BILL NO. 20 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO NURSES; AND PERMITTING NURSES TO MAKE PRONOUNCEMENTS OF DEATH UNDER CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend subsection (e), Section 1703, Chapter 17, Title 24 of the Delaware Code by adding thereto a new paragraph, designated as paragraph (9), which paragraph shall read as follows:

"(9) Any licensed registered nurse from making a pronouncement of death, and signing all forms or certificates registering such death as may be required by the State; provided, however, that this provision shall only apply to attending nurses caring for terminally ill patients in the home or place of residence of the deceased as part of a hospice program, or in a hospice; and provided that the attending physician of record has agreed in writing to permit the attending registered nurse to make a pronouncement of death."

Section 2. Amend §1902, Chapter 19, Title 24 of the Delaware Code by adding the following sentence to the end of subsection (b):

"A registered nurse shall have the authority, as part of the practice of professional nursing, to make a pronouncement of death; provided, however, that this provision shall only apply to attending nurses caring for terminally ill patients in the home or place of residence of the deceased as part of a hospice program, or in a hospice; and provided that the attending physician of record has agreed in writing to permit the attending registered nurse to make a pronouncement of death."

Approved April 4, 1989.

CHAPTER 6

FORMERLY

SENATE BILL NO. 40
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 28, TITLE 24, DELAWARE CODE, RELATING TO PROFESSIONAL ENGINEERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2817(1)(a), Chapter 28, Title 24, Delaware Code, by striking said subsection (1)(a) in its entirety and substituting in lieu thereof a new subsection (1)(a) to read as follows:

"(1) Graduates from ABET or CEAB - Accredited Engineering Curricula

(a) Graduation with a baccalaureate degree from an engineering curriculum accredited by the Accreditation Board for Engineering and Technology (ABET) or by the Canadian Engineering Accreditation Board (CEAB); and".

Section 2. Amend §2817(5)(a), Chapter 28, Title 24, Delaware Code, by striking subpart (a) of subsection (5) in its entirety and substituting in lieu thereof a new subpart (a) to read as follows:

"(a) The Council may, upon application and payment of the required fee and without further examination, issue registration as a professional engineer to any person holding a valid certificate of registration as a professional engineer issued to that person by a proper authority of a state, territory or possession of the United States, the District of Columbia, or a province or territory of Canada, provided:

(i) the professional engineering qualifications of the applicant on the effective date of such certificate of registration would have satisfied the requirements for registration in this State on that date, or

(ii) the professional engineering qualifications of the applicant at any time subsequent to the effective date of such certificate of registration would have satisfied the requirements for registration in this State in effect at that time. A personal interview may be required by Council to ascertain the facts in the case."

Section 3. Amend §2817(6), Chapter 28, Title 24, Delaware Code, by striking subpart (b) of said subsection (6) in its entirety and substituting in lieu thereof a new subpart (b) to read as follows:

"(b) Every applicant shall give not less than 5 references, people who state that in their opinion and by their personal knowledge the applicant is of good character and reputation and is qualified to practice as a professional engineer. At least 3 such references shall be registered professional engineers in this or any other state, territory or possession of the United States, the District of Columbia, or province or territory of Canada."

Section 4. Amend §2817(6), Chapter 28, Title 24, Delaware Code, by striking subpart (f) of subsection (6) in its entirety and substituting in lieu thereof a new subpart (f) to read as follows:

"(f) The examination in Principles and Practices of Engineering shall not be taken until after the completion of the professional experience requirement. The Council may waive this requirement in the case of an applicant who has previously passed the examination in any other state, territory, or possession of the United States, the District of Columbia, or province or territory of Canada."

Section 5. Amend §2818(a), Chapter 28, Title 24, Delaware Code, by striking subsection (a) in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) The experience of a full-time faculty member teaching advanced engineering subjects in an ABET-accredited, or a CEAB-accredited engineering curriculum may be accepted as part of the professional experience specified in §2817(1) or (2) of the Chapter."

Section 6. Amend §2819(1)(a), Chapter 28, Title 24, Delaware Code, by striking subpart (a) of subsection (1) in its entirety and substituting in lieu thereof a new subpart (a) to read as follows:

"(1)(a) Graduation with a baccalaureate degree from an ABET or CEAB accredited engineering curriculum or from a Council approved curriculum in engineering not ABET or CEAB accredited, engineering technology or science related to engineering; or".

Section 7. Amend §2820, Chapter 28, Title 24, Delaware Code, by striking therefrom the first paragraph beginning with the word "Individuals" and ending with the words "in this State." and substituting in lieu thereof the following new paragraph to read as follows:

"Individuals not residing in this State, not having full-time employment in this State, and not having established a place of business for the practice of professional engineering within this State, who are legally qualified by registration to practice engineering as defined within this chapter in the state, territory or possession of the United States, the District of Columbia, or province or territory of Canada where they reside or are in business, may make application to the Council in writing for a permit to practice professional engineering in this State."

Approved April 7, 1989.

CHAPTER 7
FORMERLY
HOUSE BILL NO. 113

AN ACT TO AMEND CHAPTER 158, VOLUME 36, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT AMENDING, REVISING, AND CHANGING THE CHARTER OF THE CITY OF DOVER RELATING TO CHANGING THE DATES FOR SUBMITTING THE ANNUAL BUDGET, THE ANNUAL ASSESSMENT, THE ANNUAL TAX WARRANTS, AND BY ABOLISHING THE ANNUAL TAX DISCOUNT AND CREATING A DIFFERENT MUNICIPAL LIEN DOCKET."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of the members elected to each House thereof concurring therein):

Section 1. Amend Section 44 by striking the month of "June" as stated in the first sentence thereof and by inserting in its place the month of "May" so that the City Manager will be required to prepare and submit to Council his annual budget on the second Monday of May of each year.

Section 2. Amend Section 47 by striking the month of "March" in the second and fourth paragraphs thereof and by substituting therefor the month of "May" in each case which changes the date when the annual assessment is to be made, submitted to Council, and posted.

Section 3. Amend Section 48 by striking the month of "April" as stated in the first sentence thereof and by substituting therefor the month of "June" which changes the date when Council shall determine the amount of money to be raised for general purposes for the next fiscal year.

Section 4. Amend Section 49 by striking the month of "April" in the first sentence thereof and by inserting therefor the month of "June" and in the second paragraph thereof further striking the following sentence in its entirety: "A discount of five (5) percent shall be allowed on taxes paid during the month of May in the calendar year they are assessed."

Section 5. Amend Section 28(D) regarding the Municipal Lien Docket by striking this section in its entirety and by substituting therefor the following subsection (D) to read as follows:

"(D) MUNICIPAL LIEN DOCKET

A docket known as the 'City of Dover Municipal Lien Docket' shall be prepared and maintained by the City Manager. The Docket shall be substantially in the same form as the Judgment Docket for Kent County and shall contain an index according to the name of the owner against whom such lien has been assessed. All taxes and charges for water service, sewer service, garbage service, electric service, grass cutting services and debris removal, dangerous building ordinance costs and assessments, special assessments for municipal improvements of any nature, and all other charges or assessments made by the City against property owners may be recorded in the Municipal Lien Docket and shall be and constitute a lien upon all of the real estate of the taxable against or upon whom such taxes and/or charges are laid or imposed, of which such taxable was seized at any time after such taxes and/or charges have been levied and imposed, situate in the City of Dover. All liens so recorded shall continue in full force and effect until the same plus accrued costs and interest have been paid in full. Upon payment in full of the lien and all costs and interest, it shall be the duty of the City Manager to enter forthwith upon the docket the date of final payment and the words 'satisfied in full.' Failure to record liens in the Municipal Lien Docket shall not affect liens otherwise provided for in 25 Del. C. §2901 et seq."

Approved April 13, 1989.

CHAPTER 8

FORMERLY

HOUSE BILL NO. 152
AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 5 AND SENATE AMENDMENT NOS. 2, 3, 4 AND 5

AN ACT TO AMEND CHAPTERS 93 AND 95 OF TITLE 29 RELATING TO UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1 - Amend Title 29, Chapter 93, Section 9301 by deleting the same and inserting in lieu thereof:

"§9301 - Definitions

As used in this chapter:

(a) The term 'agency' means any department, agency, or instrumentality of the State or of a political subdivision of the State; any department, agency, or instrumentality of two or more States, or two or more political subdivisions of the State, or States, and any person who has the authority to acquire property by eminent domain under State law.

(b) The term 'person' means any individual, family, partnership, corporation, or association.

(c) (1) The term 'displaced person' means:

(A) any person who moves from real property, or moves personal property from real property --

(i) as a direct result of a written notice of intent to acquire, the initiation of negotiations, or the acquisition of such real property in whole or in part for a program or project undertaken by an agency; or

(ii) as a direct result of rehabilitation, demolition, or such other displacing activity as the Agency may prescribe, under a program or project undertaken by an agency in any case in which the agency determines that such displacement is permanent; and

(iii) as a direct result of a written notice of intent to acquire, the acquisition, rehabilitation or demolition of, in whole or part, of other real property on which the person conducts a business or farm operation, for a program or project undertaken by an agency; however, eligibility for such person under this paragraph applies only for purposes of obtaining moving expenses and relocation assistance advisory services under Sections 9302(a) and (b) and 9306 of this Chapter.

(2) The term 'displaced person' does not include --

(A) a person who has been determined, according to criteria established by the Agency, to be either unlawfully occupying the displacement dwelling, been evicted for lawful cause prior to the initiation of negotiations for the property or to have occupied such dwelling for the purpose of obtaining assistance under this chapter;

(B) in any case in which the agency acquires property for a program or project, any person (other than a person who was an occupant of such property at the time it was acquired) who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(C) in any case where such action is of voluntary nature where the agency would not seek to purchase such real property through eminent domain proceedings.

(d) The term 'business' means any lawful activity, except a farm operation, conducted primarily:

(1) for the purchase, sale, lease and rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities or any other personal property;

(2) for the sale of service to the public;

(3) by a lawful nonprofit organization; or

(4) solely for the purposes of Section 9302 of this chapter for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of above activities are conducted.

(e) The term 'farm operation' means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) The term 'comparable replacement dwelling' means any dwelling that is (A) decent, safe, and sanitary; (B) adequate in size to accommodate the occupants; (C) within the financial means of the displaced person; (D) functionally equivalent to the displacement dwelling; (E) in an area not subject to unreasonably adverse environmental conditions; (F) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment; (G) on a site that is typical in size for residential development; and (H) currently available on the open market to the displaced person.

(g) The term 'mortgage' means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State of Delaware, together with the credit instruments, if any, secured thereby.

(h) 'criteria established by the Agency' as used in this Chapter, shall mean those criteria established and approved pursuant to the relevant provisions of 49 CFR Part 24, as amended.

(i) in the event a term in this Chapter is undefined, but which term is defined in 49 CFR Part 24, as amended, the definition contained therein shall apply.

Section 2. Amend Section 9302(a), Chapter 93, Title 29 Delaware Code by adding thereto a new subsection to be designated as subsection (4) and to read as follows:

"(4) Actual expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, in accordance with criteria established by the Agency, but not to exceed \$10,000. Notwithstanding the limitations of the preceding sentence, State agency payments under this subsection shall use the same criteria and shall be authorized to pay in excess of the \$10,000 payment permitted by the preceding sentence under said criteria, but shall not use or attempt to obtain reimbursement from federal funds to the extent of the excess. In any event, total payments under this subsection shall not exceed \$22,500."

Section 3. Amend Section 9302, Chapter 93, Title 29 Delaware Code by deleting existing subsections (b) and (c) and substituting in lieu thereof the following:

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive a fixed expense allowance payment in an amount to be determined according to criteria established by the agency, except that such payment shall not be less than \$250.00 nor more than \$850.00.

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the Agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the Agency, except that such payment shall be not less than \$1,000 nor more than \$20,000. A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection."