

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 157

Short Title: Amend Relocation Assistance Act.

(Public)

Sponsors: Senator Basnight.

Referred to: State Government.

February 14, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE UNIFORM RELOCATION ASSISTANCE ACT IN
ORDER TO CONFORM TO AMENDMENTS IN THE FEDERAL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 133-7 reads as rewritten:

"§ 133-7. Definitions.

As used in this Article:

- (1) 'Agency' means the State of North Carolina or any board, bureau, commission, institution, or other agency of the State, or any board or governing body of a political subdivision of the State, or an agency, commission, or authority of a political subdivision of the State.
- (2) 'Business' means any lawful activity, excepting a farm operation, conducted primarily:
 - a. For the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;
 - b. For the sale of services to the public;
 - c. By a nonprofit organization; or
 - d. Solely for the purposes of G.S. 133-8(a), 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

1 the premises on which any of the above activities are
2 conducted.

3 (3) ~~'Displaced person' means any person who, on or after January 1, 1972,~~
4 ~~moves from real property or moves his personal property from real~~
5 ~~property, as a result of the acquisition of such real property, in whole~~
6 ~~or in part, or as the result of the written order of the acquiring agency~~
7 ~~to vacate real property for a program or project undertaken by an~~
8 ~~agency; and solely for the purposes of G.S. 133-8(a) and (b) and G.S.~~
9 ~~133-11, as a result of the acquisition of or as a result of the written~~
10 ~~order of the acquiring agency to vacate other real property, on which~~
11 ~~such person conducts a business or farm operation, for such program~~
12 ~~or project.~~

13 (3) a. 'Displaced person' means, except as provided in subdivision
14 (a)(ii)-

15 (i) Any person who moves from real property, or moves his
16 personal property from real property - (A) as a direct
17 result of a written notice of intent to acquire or the
18 acquisition of such real property in whole or in part for a
19 program or project undertaken by an agency; or (B) on
20 which such person is a residential tenant or conducts a
21 small business, a farm operation, or business defined in
22 G.S. 133-7(2)(d) as a direct result of rehabilitation,
23 demolition, or such other displacing activity as the
24 agency may prescribe, under a program or project
25 undertaken by an agency in any case in which the agency
26 determines that such displacement is permanent; and

27 (ii) Solely for the purposes of G.S. 133-8(a) and (b) and G.S.
28 133-11, any person who moves from real property, or
29 moves his personal property from real property - (A) as a
30 direct result of a written notice of intent to acquire or the
31 acquisition of other real property, in whole or in part, on
32 which such person conducts a business or farm
33 operation, for a program or project undertaken by an
34 agency; or (B) as a direct result of rehabilitation,
35 demolition, or such other displacing activity as the
36 agency may prescribe, of other real property on which
37 such person conducts a business or farm operation, under
38 a program or project undertaken by an agency where the
39 agency determines that such displacement is permanent.

40 b. The term 'displaced person' does not include -

41 (i) A person who has been determined, according to
42 criteria established by the agency, to be either unlawfully
43 occupying the displacement dwelling or to have

- 1 occupied such dwelling for the purpose of obtaining
 2 assistance under this Article;
 3 (ii) In any case in which the agency acquires property for a
 4 program or project, any person (other than a person who
 5 was an occupant of such property at the time it was
 6 acquired) who occupies such property on a rental basis
 7 for a short term or a period subject to termination when
 8 the property is needed for the program or project.
- 9 (4) 'Farm operation' means any activity conducted solely or primarily for
 10 the production of one or more agricultural products or commodities,
 11 including timber, for sale or home use, and customarily producing
 12 such products or commodities in sufficient quantity to be capable of
 13 contributing materially to the operator's support.
- 14 (5) 'Person' means any individual, partnership, corporation or association.
- 15 (6) 'Program or project' for the purpose of this Article shall mean any
 16 construction or rehabilitation project undertaken by an agency, as
 17 herein defined or the utilization of real property by an agency for any
 18 other public purposes, and to which program or project the agency
 19 makes this Article applicable.
- 20 (7) 'Relocation officer' means the head of the department delegated the
 21 authority to carry out relocation policies by the agency.
- 22 (8) 'Comparable replacement dwelling' means any dwelling that is (i)
 23 decent, safe, and sanitary; (ii) adequate in size to accommodate the
 24 occupants; (iii) within the financial means of the displaced person; (iv)
 25 functionally equivalent; (v) in an area not subject to unreasonably
 26 adverse environmental conditions; and (vi) in a location generally not
 27 less desirable than the location of the displaced person's dwelling with
 28 respect to public utilities, facilities, services, and the displaced person's
 29 place of employment.
- 30 (9) 'Appraisal' means a written statement independently and impartially
 31 prepared by a qualified appraiser setting forth an opinion of defined
 32 value of an adequately described property as of a specific date,
 33 supported by the presentation and analysis of relevant market
 34 information.
- 35 (10) 'Lead agency' means the North Carolina Department of
 36 Transportation. The lead agency shall issue such rules and regulations
 37 as may be necessary to carry out this act and to comply with federal
 38 aid regulations."

39 Sec. 2. G.S. 133-8 reads as rewritten:

40 **"§ 133-8. Moving and related expenses.**

- 41 (a) Whenever the acquisition of real property for a program or project undertaken
 42 by an agency will result in the displacement of any person, such agency ~~may~~ shall make
 43 a payment to any displaced person, upon application as approved by the head of the
 44 agency for:

- 1 (1) Actual reasonable expenses in moving himself, his family, business,
2 farm operation, or other personal property;
- 3 (2) Actual direct losses of tangible personal property as a result of moving
4 or discontinuing a business or farm operation, but not to exceed an
5 amount equal to the reasonable expenses that would have been
6 required to relocate such property, as determined by the relocation
7 officer; and
- 8 (3) Actual reasonable expenses in searching for a replacement business or
9 ~~farm.~~ farm in accordance with criteria established by the lead agency,
10 but not to exceed one thousand dollars (\$1,000); and
- 11 (4) Actual reasonable expenses necessary to reestablish a displaced farm,
12 nonprofit organization, or small business at its new site, in accordance
13 with criteria to be established by the lead agency, but not to exceed ten
14 thousand dollars (\$10,000).

15 (b) Any displaced person eligible for payments under subsection (a) of this
16 section who is displaced from a dwelling and who elects to accept the payments
17 authorized by this subsection in lieu of the payments authorized by subsection (a) of this
18 section ~~may receive a moving expense or allowance, determined according to a schedule~~
19 ~~established by the head of the agency, not to exceed three hundred dollars (\$300.00); and a~~
20 ~~dislocation allowance of two hundred dollars (\$200.00).~~ may receive an expense and
21 dislocation allowance, which shall be determined according to a schedule established by
22 the lead agency.

23 (c) ~~Any displaced person eligible for payments under subsection (a) of this~~
24 ~~section who is displaced from his place of business or from his farm operation and who~~
25 ~~elects to accept the payment authorized by this subsection in lieu of the payment~~
26 ~~authorized by subsection (a) of this section, may receive a fixed payment in an amount~~
27 ~~equal to the average annual net earnings of the business or farm operation, except that~~
28 ~~such payment shall be not less than two thousand five hundred dollars (\$2,500) nor~~
29 ~~more than ten thousand dollars (\$10,000). In the case of a business no payment shall be~~
30 ~~made under this subsection unless the head of the agency is satisfied that the business (i)~~
31 ~~cannot be relocated without a substantial loss of its existing patronage, and (ii) is not a~~
32 ~~part of a commercial enterprise having at least one other establishment not being~~
33 ~~acquired by the agency which is engaged in the same or similar business. For purposes~~
34 ~~of this subsection, the term "average annual net earnings" means one half of any net~~
35 ~~earnings of the business or farm operation, before federal, State, and local income taxes,~~
36 ~~during the two taxable years immediately preceding the taxable year in which such~~
37 ~~business or farm operation moves from the real property acquired for such project, or~~
38 ~~during such other period as the head of such agency determines to be more equitable for~~
39 ~~establishing such earnings, and includes any compensation paid by the business or farm~~
40 ~~operation to the owner, his spouse, or his dependents during such period. To be eligible~~
41 ~~for the payment authorized by this section, the business or farm operation must make its~~
42 ~~State income tax returns available, as well as its financial statements and accounting~~
43 ~~records for confidential use to determine the payment authorized by this section.~~

1 (c) Any displaced person eligible for payments under subsection (a) of this
2 section who is displaced from the person's place of business or farm operation and who
3 is eligible under criteria established by the lead agency may elect to accept the payment
4 authorized by this subsection in lieu of the payment authorized by subsection (a) of this
5 section. Such payment shall consist of a fixed payment in an amount to be determined
6 according to criteria established by the lead agency, except that such payment shall not
7 be less than one thousand dollars (\$1,000) nor more than twenty thousand dollars
8 (\$20,000). A person whose sole business at the displacement dwelling is the rental of
9 such property to others shall not qualify for a payment under this subsection."

10 Sec. 3. G.S. 133-9 reads as rewritten:

11 **"§ 133-9. Replacement housing for homeowners.**

12 (a) In addition to payments otherwise authorized by this Article and subject to
13 the provisions of G.S. 133-10.1 the agency ~~may~~shall make an additional payment not in
14 excess of ~~fifteen thousand dollars (\$15,000)~~twenty-two thousand five hundred dollars
15 (\$22,500) to any displaced person who is displaced from a dwelling actually owned and
16 occupied by such displaced person for not less than 180 days prior to the initiation of
17 negotiations for the acquisition of the property. Such additional payment shall include
18 the following elements:

19 (1) The amount, if any, which when added to the acquisition cost of the
20 dwelling acquired by the agency, equals the reasonable cost of a
21 comparable replacement ~~dwelling which is a decent, safe, and sanitary~~
22 ~~dwelling adequate to accommodate such displaced person, reasonably~~
23 ~~accessible to public services and places of employment and available on the~~
24 ~~private market.~~dwelling. All determinations required to carry out this
25 section shall be made in accordance with standards established by the
26 agency ~~making the additional payment.~~lead agency.

27 ~~(2)~~ The amount, if any, ~~shall be the amount which will compensate such~~
28 ~~displaced person for any increased interest costs which such person is~~
29 ~~required to pay for financing the acquisition of any such comparable~~
30 ~~replacement dwelling. Such amount shall be paid only if the dwelling~~
31 ~~acquired by the agency was encumbered by a bona fide mortgage~~
32 ~~which was a valid lien on such dwelling for not less than 180 days~~
33 ~~prior to the initiation of negotiations for the acquisition of such~~
34 ~~dwelling. Such amount shall be equal to the excess in the aggregate~~
35 ~~interest and other debt service costs of that amount of the principal of~~
36 ~~the mortgage on the replacement dwelling which is equal to the unpaid~~
37 ~~balance of the mortgage on the acquired dwelling, over the remainder~~
38 ~~term of the mortgage on the acquired dwelling, reduced to discounted~~
39 ~~present value. The discount rate shall be the prevailing interest rate~~
40 ~~paid on savings deposits by commercial banks in the general area in~~
41 ~~which the replacement dwelling is located.~~

42 (2) The amount, if any, which will compensate such displaced person for
43 any increased interest costs and other debt service costs which such
44 person is required to pay for financing the acquisition of any such

1 comparable replacement dwelling. Such amount shall be paid only if
2 the dwelling acquired by the agency was encumbered by a bona fide
3 mortgage which was a valid lien on such dwelling for not less than 180
4 days immediately prior to the initiation of negotiations for the
5 acquisition of such dwelling in accordance with criteria to be
6 established by the lead agency.

7 (3) Reasonable expenses incurred by such displaced person for evidence
8 of title, recording fees, and other closing costs incident to the purchase
9 of the replacement dwelling, but not including prepaid expenses.

10 ~~(b) The additional payment authorized by this section shall be made only to such~~
11 ~~a displaced person who purchases and occupies a replacement dwelling which is decent,~~
12 ~~safe, and sanitary not later than the end of the one-year period beginning on the date on~~
13 ~~which he receives from the agency final payment of all costs of the acquired dwelling,~~
14 ~~or on the date on which he moves from the acquired dwelling, whichever is the later~~
15 ~~date.~~

16 (b) The additional payment authorized by this section shall be made only to a
17 displaced person who purchases and occupies a comparable replacement dwelling
18 within one year after the date on which such person receives final payment from the
19 agency for the acquired dwelling, except that the agency may extend such period for
20 good cause. If such period is extended, the payment under this section shall be based on
21 the costs of relocating the person to a comparable replacement dwelling within one year
22 of such date.

23 (c) The agency may, in cooperation with any federal agency upon application by
24 a mortgagee, insure any mortgage (including advances during construction) on a
25 comparable replacement dwelling executed by a displaced person assisted under this
26 section, which mortgage is eligible for insurance under any federal law administered by
27 such agency notwithstanding any requirements under such law relating to age, physical
28 condition, or other personal characteristics of eligible mortgagors, and may make
29 commitments for the insurance of such mortgage prior to the date of execution of the
30 mortgage."

31 Sec. 4. G.S. 133-10 reads as rewritten:

32 **"§ 133-10. Replacement housing for tenants and certain others.**

33 ~~In addition to amounts otherwise authorized by this Article and subject to the~~
34 ~~provisions of G.S. 133-10.1, the agency may make a payment to or for any displaced~~
35 ~~person displaced from any dwelling not eligible to receive a payment under G.S. 133-9~~
36 ~~which dwelling was actually and lawfully occupied by such displaced person for not~~
37 ~~less than 90 days prior to the initiation of negotiations for acquisition of such dwelling.~~
38 ~~Such payment shall be either:~~

39 ~~(1) The amount necessary to enable such displaced person to lease or rent~~
40 ~~for a period not to exceed four years, a decent, safe, and sanitary~~
41 ~~dwelling of standards adequate to accommodate such person in areas~~
42 ~~not generally less desirable in regard to public utilities and public and~~
43 ~~commercial facilities, and reasonably accessible to his place of~~
44 ~~employment, but not to exceed four thousand dollars (\$4,000), or~~

(2) ~~The amount necessary to enable such person to make a down payment (including incidental expenses described in G.S. 133-9(a)(3), on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed four thousand dollars (\$4,000), except that if such amount exceeds two thousand dollars (\$2,000), such person must equally match any such amount in excess of two thousand dollars (\$2,000), in making the down payment.~~

(a) In addition to amounts otherwise authorized by this Article, the agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under G.S. 133-9 which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days immediately prior to (1) the initiation of negotiations for acquisition of such dwelling, or (2) in any case in which displacement is not a direct result of acquisition, such other event as the agency shall prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed 42 months, a comparable replacement dwelling, but not to exceed five thousand two hundred fifty dollars (\$5,250). At the discretion of the agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account such person's income.

(b) Any person eligible for a payment under subsection (a) of this section may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a comparable replacement dwelling. Any such person may, at the discretion of the agency, be eligible under this subsection for the maximum payment allowed under subsection (a), except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling, such payment shall not exceed the payment such person would otherwise have received under G.S. 133-9(a) had the person owned and occupied the displacement dwelling 180 days prior to the initiation of such negotiations."

Sec. 5. G.S. 133-10.1 reads as rewritten:

"§ 133-10.1. Authorization for replacement housing.

As a last resort, if a project cannot proceed to actual construction because of the lack of availability of comparable sale or rental housing, or because required federal-aid payments are in excess of those otherwise authorized by this Article, the ~~Department of Transportation~~ agency may:

- (1) Undertake through private contractors, after competitive bidding, to provide for the construction and renovation of the necessary housing,
- (2) Purchase sites and improvements after publishing in a newspaper of general circulation in the county in which such sites are located a public notice of the proposed transaction, including a description of the sites and improvements to be purchased, the owner or owners thereof, the terms of the transaction including the price and date of the

1 proposed purchase, and a brief description of the factors upon which
2 the agency has based its determination that such housing is not
3 otherwise available, and

4 (3) Sell or lease the premises to the displaced person upon such terms as
5 the agency deems necessary.

6 (4) Exceed the limitation in G.S. 133-9(a) and 133-10.”

7 Sec. 5. G.S. 133-11 reads as rewritten:

8 **"§ 133-11. Relocation assistance advisory services.**

9 (a) ~~Whenever the acquisition of real property for a program or project undertaken~~
10 ~~by an agency will result in the displacement of any person the agency may provide a~~
11 ~~relocation assistance advisory program for displaced persons which shall offer the~~
12 ~~services described in subsection (c) of this section. If the relocation officer determines~~
13 ~~that any person occupying property immediately adjacent to the real property acquired~~
14 ~~is caused substantial economic injury because of the acquisition, he may offer such~~
15 ~~person relocation advisory services under such program.~~

16 (b) ~~All agencies administering programs which may be of assistance to displaced~~
17 ~~persons covered by this Article shall cooperate to the maximum extent feasible with the~~
18 ~~agency causing the displacement to assure that such displaced persons receive the~~
19 ~~maximum assistance available to them.~~

20 (c) ~~Each relocation assistance advisory program authorized by subsection (a) of~~
21 ~~this section shall include such measures, facilities, or services as may be necessary or~~
22 ~~appropriate in order to:~~

23 (1) ~~Determine the need, if any, of displaced persons, for relocation assistance;~~

24 (2) ~~Provide current and continuing information on the availability, prices and~~
25 ~~rentals, of comparable decent, safe, and sanitary sales and rental housing, and of~~
26 ~~comparable commercial properties and locations for displaced businesses;~~

27 (3) ~~Assure that, within a reasonable period of time, prior to displacement there~~
28 ~~will be available in areas not generally less desirable in regard to public utilities and~~
29 ~~public and commercial facilities and at rents or prices within the financial means of the~~
30 ~~families and individuals displaced, decent, safe, and sanitary dwellings, as defined by~~
31 ~~such agency head, equal in number to the number of and available to such displaced~~
32 ~~persons who require such dwellings and reasonably accessible to their places of~~
33 ~~employment, except that the agency head may prescribe by regulation situations when~~
34 ~~such assurances may be waived;~~

35 (4) ~~Assist a displaced person displaced from his business or farm operation in~~
36 ~~obtaining and becoming established in a suitable replacement location;~~

37 (5) ~~Supply information concerning federal and State housing programs, disaster~~
38 ~~loan programs, and other federal or State programs offering assistance to displaced~~
39 ~~persons; and~~

40 (6) ~~Provide other advisory services to displaced persons in order to minimize~~
41 ~~hardships to such persons in adjusting to relocation.~~

42 (d) ~~The agencies shall coordinate relocation activities with project work and~~
43 ~~other planned or proposed governmental actions in the community or nearby areas~~
44 ~~which may affect the carrying out of relocation assistance programs.~~

1 (a) Programs or projects undertaken by an agency shall be planned in a manner
2 that (1) recognizes, at any early stage in the planning of such programs or projects and
3 before the commencement of any actions which will cause displacements of individuals,
4 families, businesses, and farm operations, and (2) provides for the resolution of such
5 problems in order to minimize adverse impacts on displaced persons and to expedite
6 program or project advancement and completion.

7 (b) Agencies shall ensure that the relocation assistance advisory services described in
8 subsection (c) of this section are made available to all persons displaced by such
9 agency. If such agency determines that any person occupying property immediately
10 adjacent to the property where the displacing activity occurs suffers substantial
11 economic injury as a result thereof, the agency may make such advisory services
12 available to that person.

13 (c) Each relocation assistance advisory program required by subsection (b) of
14 this section shall include such measures, facilities, or services as may be necessary or
15 appropriate in order to:

16 (1) Determine, and make timely recommendations on, the needs and
17 preferences, if any, of displaced persons for relocation assistance;

18 (2) Provide current and continuing information on the availability, sales
19 prices, and rental charges of comparable replacement dwellings for
20 displaced homeowners and tenants and suitable locations for
21 businesses and farm operations;

22 (3) Assist a person displaced from a business or farm operation in
23 obtaining and becoming established in a suitable replacement location;

24 (4) Supply (i) information concerning federal, State, and local programs
25 which may be of assistance to displaced persons, and (ii) technical
26 assistance to such persons in applying for assistance under such
27 programs;

28 (5) Provide other advisory services to displaced persons in order to
29 minimize hardships to such persons in adjusting to relocation; and

30 (6) The agency shall coordinate relocation activities performed by such
31 agency with other federal, State, or local governmental actions in the
32 community which could affect the efficient and effective delivery of
33 relocation assistance and related services.

34 (d) Notwithstanding G.S. 133-7(3)(b), in any case in which a displacing agency
35 acquires property for a program or project, any person who occupies such property on a
36 rental basis for a short term or a period subject to termination when the property is
37 needed for the program or project shall be eligible for advisory services to the extent
38 determined by the agency."

39 Sec. 6. This act is effective upon ratification.