

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE BILL 1213  
Committee Substitute Favorable 4/29/03  
Third Edition Engrossed 5/1/03  
Senate Commerce Committee Substitute Adopted 6/18/03  
Senate Finance Committee Substitute Adopted 7/16/04  
Sixth Edition Engrossed 7/16/04

Short Title: Monetary Comp/Outdoor Advertising.

(Public)

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Sponsors:

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Referred to:

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April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PAY MONETARY  
COMPENSATION FOR REMOVAL OF LAWFULLY ERECTED  
OFF-PREMISES OUTDOOR ADVERTISING SIGNS AND TO AUTHORIZE  
LOCAL GOVERNMENTS TO ENTER INTO RELOCATION AND  
RECONSTRUCTION AGREEMENTS WITH OWNERS OF NONCONFORMING  
OFF-PREMISES OUTDOOR ADVERTISING SIGNS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 153A of the General Statutes is amended by adding a  
new section to read:

**"§ 153A-143. Regulation of outdoor advertising.**

(a) As used in this section, the term 'off-premises outdoor advertising' includes off-premises outdoor advertising visible from the main-traveled way of any road.

(b) A county may require the removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance and may regulate the use of off-premises outdoor advertising within the jurisdiction of the county in accordance with the applicable provisions of this Chapter.

(c) A county shall give written notice of its intent to require removal of off-premises outdoor advertising by sending a letter by certified mail to the last known address of the owner of the outdoor advertising and the owner of the property on which the outdoor advertising is located.

(d) No county may enact or amend an ordinance of general applicability to require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign without the payment of monetary compensation to the owners of the

1 off-premises outdoor advertising, except as provided below. The payment of monetary  
2 compensation is not required if:

- 3       (1) The county and the owner of the nonconforming off-premises outdoor  
4 advertising enter into a relocation agreement pursuant to subsection (g)  
5 of this section.
- 6       (2) The county and the owner of the nonconforming off-premises outdoor  
7 advertising enter into an agreement pursuant to subsection (k) of this  
8 section.
- 9       (3) The off-premises outdoor advertising is determined to be a public  
10 nuisance or detrimental to the health or safety of the populace.
- 11       (4) The removal is required for establishing, extending, enlarging, or  
12 improving any of the public enterprises listed in G.S. 153A-274, and  
13 the county allows the off-premises outdoor advertising to be relocated  
14 to a comparable location.
- 15       (5) The off-premises outdoor advertising is subject to removal pursuant to  
16 statutes, ordinances or regulations generally applicable to the  
17 demolition or removal of damaged structures.

18       (e) Monetary compensation is the fair market value of the off-premises outdoor  
19 advertising in place immediately prior to its removal and without consideration of the  
20 effect of the ordinance or any diminution in value caused by the ordinance requiring its  
21 removal. Monetary compensation shall be determined based on:

- 22           (1) The factors listed in G.S. 105-317.1(a); and
- 23           (2) The listed property tax value of the property and any documents  
24 regarding value submitted to the taxing authority.

25       (f) If the parties are unable to reach an agreement on monetary compensation to  
26 be paid by the county to the owner of the nonconforming off-premises outdoor  
27 advertising sign for its removal, and the county elects to proceed with the removal, the  
28 county may bring an action in superior court for a determination of the monetary  
29 compensation to be paid. In determining monetary compensation, the court shall  
30 consider the factors set forth in subsection (e) of this section. Upon payment of  
31 monetary compensation for the sign, the county shall own the sign.

32       (g) In lieu of paying monetary compensation, a county may enter into an  
33 agreement with the owner of a nonconforming off-premises outdoor advertising sign to  
34 relocate and reconstruct the sign. The agreement shall include the following:

- 35           (1) Provision for relocation of the sign to a site reasonably comparable to  
36 or better than the existing location. In determining whether a location  
37 is comparable or better, the following factors shall be taken into  
38 consideration:
  - 39           a. The size and format of the sign.
  - 40           b. The characteristics of the proposed relocation site, including  
41 visibility, traffic count, area demographics, zoning, and any  
42 uncompensated differential in the sign owner's cost to lease the  
43 replacement site.
  - 44           c. The timing of the relocation.

- 1           (2) Provision for payment by the county of the reasonable costs of  
2 relocating and reconstructing the sign including:  
3           a. The actual cost of removing the sign.  
4           b. The actual cost of any necessary repairs to the real property for  
5 damages caused in the removal of the sign.  
6           c. The actual cost of installing the sign at the new location.  
7           d. An amount of money equivalent to the income received from  
8 the lease of the sign for a period of up to 30 days if income is  
9 lost during the relocation of the sign.

10       (h) For the purposes of relocating and reconstructing a nonconforming  
11 off-premises outdoor advertising sign pursuant to subsection (g) of this section, a  
12 county, consistent with the welfare and safety of the community as a whole, may adopt  
13 a resolution or adopt or modify its ordinances to provide for the issuance of a permit or  
14 other approval, including conditions as appropriate, or to provide for dimensional,  
15 spacing, setback, or use variances as it deems appropriate.

16       (i) If a county has offered to enter into an agreement to relocate a  
17 nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this  
18 section, and within 120 days after the initial notice by the county the parties have not  
19 been able to agree that the site or sites offered by the county for relocation of the sign  
20 are reasonably comparable or better than the existing site, the parties shall enter into  
21 binding arbitration to resolve their disagreements. Unless a different method of  
22 arbitration is agreed upon by the parties, the arbitration shall be conducted by a panel of  
23 three arbitrators. Each party shall select one arbitrator and the two arbitrators chosen by  
24 the parties shall select the third member of the panel. The American Arbitration  
25 Association rules shall apply to the arbitration unless the parties agree otherwise.

26       (j) If the arbitration results in a determination that the site or sites offered by the  
27 county for relocation of the nonconforming sign are not reasonably comparable to or  
28 better than the existing site, and the county elects to proceed with the removal of the  
29 sign, the parties shall determine the monetary compensation under subsection (e) of this  
30 section to be paid to the owner of the sign. If the parties are unable to reach an  
31 agreement regarding monetary compensation within 30 days of the receipt of the  
32 arbitrators' determination, and the county elects to proceed with the removal of the sign,  
33 then the county may bring an action in superior court for a determination of the  
34 monetary compensation to be paid by the county to the owner for the removal of the  
35 sign. In determining monetary compensation, the court shall consider the factors set  
36 forth in subsection (e) of this section. Upon payment of monetary compensation for the  
37 sign, the county shall own the sign.

38       (k) Notwithstanding the provisions of this section, a county and an off-premises  
39 outdoor advertising sign owner may enter into a voluntary agreement allowing for the  
40 removal of the sign after a set period of time in lieu of monetary compensation. A  
41 county may adopt an ordinance or resolution providing for a relocation, reconstruction,  
42 or removal agreement.

43       (l) A county has up to three years from the effective date of an ordinance enacted  
44 under this section to pay monetary compensation to the owner of the off-premises

1 outdoor advertising provided the affected property remains in place until the  
2 compensation is paid.

3 (m) This section does not apply to any ordinance in effect on the effective date of  
4 this section. A county may repeal or amend an ordinance in effect on the effective date  
5 of this section so long as an amendment to the existing ordinance does not reduce the  
6 period of amortization in effect on the effective date of this section.

7 (n) The provisions of this section shall not be used to interpret, construe, alter, or  
8 otherwise modify the exercise of the power of eminent domain by an entity pursuant to  
9 Chapter 40A or Chapter 136 of the General Statutes.

10 (o) Nothing in this section shall limit a county's authority to use amortization as a  
11 means of phasing out nonconforming uses other than off-premises outdoor advertising."

12 **SECTION 2.** Chapter 160A of the General Statutes is amended by adding a  
13 new section to read:

14 **"§ 160A-199. Regulation of outdoor advertising.**

15 (a) As used in this section, the term 'off-premises outdoor advertising' includes  
16 off-premises outdoor advertising visible from the main-traveled way of any road.

17 (b) A city may require the removal of an off-premises outdoor advertising sign  
18 that is nonconforming under a local ordinance and may regulate the use of off-premises  
19 outdoor advertising within the jurisdiction of the city in accordance with the applicable  
20 provisions of this Chapter.

21 (c) A city shall give written notice of its intent to require removal of off-premises  
22 outdoor advertising by sending a letter by certified mail to the last known address of the  
23 owner of the outdoor advertising and the owner of the property on which the outdoor  
24 advertising is located.

25 (d) No city may enact or amend an ordinance of general applicability to require  
26 the removal of any nonconforming, lawfully erected off-premises outdoor advertising  
27 sign without the payment of monetary compensation to the owners of the off-premises  
28 outdoor advertising, except as provided below. The payment of monetary compensation  
29 is not required if:

30 (1) The city and the owner of the nonconforming off-premises outdoor  
31 advertising enter into a relocation agreement pursuant to subsection (g)  
32 of this section.

33 (2) The city and the owner of the nonconforming off-premises outdoor  
34 advertising enter into an agreement pursuant to subsection (k) of this  
35 section.

36 (3) The off-premises outdoor advertising is determined to be a public  
37 nuisance or detrimental to the health or safety of the populace.

38 (4) The removal is required for opening, widening, extending or  
39 improving streets or sidewalks, or for establishing, extending,  
40 enlarging, or improving any of the public enterprises listed in  
41 G.S. 160A-311, and the city allows the off-premises outdoor  
42 advertising to be relocated to a comparable location.

1           (5) The off-premises outdoor advertising is subject to removal pursuant to  
2           statutes, ordinances, or regulations generally applicable to the  
3           demolition or removal of damaged structures.

4           (e) Monetary compensation is the fair market value of the off-premises outdoor  
5           advertising in place immediately prior to its removal and without consideration of the  
6           effect of the ordinance or any diminution in value caused by the ordinance requiring its  
7           removal. Monetary compensation shall be determined based on:

8           (1) The factors listed in G.S. 105-317.1(a); and

9           (2) The listed property tax value of the property and any documents  
10           regarding value submitted to the taxing authority.

11          (f) If the parties are unable to reach an agreement under subsection (e) of this  
12          section on monetary compensation to be paid by the city to the owner of the  
13          nonconforming off-premises outdoor advertising sign for its removal, and the city elects  
14          to proceed with the removal of the sign, the city may bring an action in superior court  
15          for a determination of the monetary compensation to be paid. In determining monetary  
16          compensation, the court shall consider the factors set forth in subsection (e) of this  
17          section. Upon payment of monetary compensation for the sign, the city shall own the  
18          sign.

19          (g) In lieu of paying monetary compensation, a city may enter into an agreement  
20          with the owner of a nonconforming off-premises outdoor advertising sign to relocate  
21          and reconstruct the sign. The agreement shall include the following:

22          (1) Provision for relocation of the sign to a site reasonably comparable to  
23          or better than the existing location. In determining whether a location  
24          is comparable or better, the following factors shall be taken into  
25          consideration:

26           a. The size and format of the sign.

27           b. The characteristics of the proposed relocation site, including  
28           visibility, traffic count, area demographics, zoning, and any  
29           uncompensated differential in the sign owner's cost to lease the  
30           replacement site.

31           c. The timing of the relocation.

32          (2) Provision for payment by the city of the reasonable costs of relocating  
33          and reconstructing the sign including:

34           a. The actual cost of removing the sign.

35           b. The actual cost of any necessary repairs to the real property for  
36           damages caused in the removal of the sign.

37           c. The actual cost of installing the sign at the new location.

38           d. An amount of money equivalent to the income received from  
39           the lease of the sign for a period of up to 30 days if income is  
40           lost during the relocation of the sign.

41          (h) For the purposes of relocating and reconstructing a nonconforming  
42          off-premises outdoor advertising sign pursuant to subsection (g) of this section, a city,  
43          consistent with the welfare and safety of the community as a whole, may adopt a  
44          resolution or adopt or modify its ordinances to provide for the issuance of a permit or

1 other approval, including conditions as appropriate, or to provide for dimensional,  
2 spacing, setback, or use variances as it deems appropriate.

3 (i) If a city has offered to enter into an agreement to relocate a nonconforming  
4 off-premises outdoor advertising sign pursuant to subsection (g) of this section, and  
5 within 120 days after the initial notice by the city the parties have not been able to agree  
6 that the site or sites offered by the city for relocation of the sign are reasonably  
7 comparable to or better than the existing site, the parties shall enter into binding  
8 arbitration to resolve their disagreements. Unless a different method of arbitration is  
9 agreed upon by the parties, the arbitration shall be conducted by a panel of three  
10 arbitrators. Each party shall select one arbitrator and the two arbitrators chosen by the  
11 parties shall select the third member of the panel. The American Arbitration Association  
12 rules shall apply to the arbitration unless the parties agree otherwise.

13 (j) If the arbitration results in a determination that the site or sites offered by the  
14 city for relocation of the nonconforming sign are not comparable to or better than the  
15 existing site, and the city elects to proceed with the removal of the sign, the parties shall  
16 determine the monetary compensation under subsection (e) of this section to be paid to  
17 the owner of the sign. If the the parties are unable to reach an agreement regarding  
18 monetary compensation within 30 days of the receipt of the arbitrators' determination,  
19 and the city elects to proceed with the removal of the sign, then the city may bring an  
20 action in superior court for a determination of the monetary compensation to be paid by  
21 the city to the owner for the removal of the sign. In determining monetary  
22 compensation, the court shall consider the factors set forth in subsection (e) of this  
23 section. Upon payment of monetary compensation for the sign, the city shall own the  
24 sign.

25 (k) Notwithstanding the provisions of this section, a city and an off-premises  
26 outdoor advertising sign owner may enter into a voluntary agreement allowing for the  
27 removal of the sign after a set period of time in lieu of monetary compensation. A city  
28 may adopt an ordinance or resolution providing for a relocation, reconstruction, or  
29 removal agreement.

30 (l) A city has up to three years from the effective date of an ordinance enacted  
31 under this section to pay monetary compensation to the owner of the off-premises  
32 outdoor advertising provided the affected property remains in place until the  
33 compensation is paid.

34 (m) This section does not apply to any ordinance in effect on the effective date of  
35 this section. A city may amend an ordinance in effect on the effective date of this  
36 section to extend application of the ordinance to off-premises outdoor advertising  
37 located in territory acquired by annexation or located in the extraterritorial jurisdiction  
38 of the city. A city may repeal or amend an ordinance in effect on the effective date of  
39 this section so long as the amendment to the existing ordinance does not reduce the  
40 period of amortization in effect on the effective date of this section.

41 (n) The provisions of this section shall not be used to interpret, construe, alter or  
42 otherwise modify the exercise of the power of eminent domain by an entity pursuant to  
43 Chapter 40A or Chapter 136 of the General Statutes.

- 1       (o) Nothing in this section shall limit a city's authority to use amortization as a  
2 means of phasing out nonconforming uses other than off-premises outdoor advertising."  
3       **SECTION 3.** Section 1 of S.L. 2003-432 is repealed.  
4       **SECTION 4.** This act is effective when it becomes law.