

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 429
RATIFIED BILL

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) No county may enact or amend an ordinance 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 off-premises outdoor advertising. The payment of monetary compensation is not required if:

- (1) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace; or
- (2) The removal is required for road widening or other governmental development projects, and the county allows the off-premises outdoor advertising to be relocated to an equally visible and comparable location.

(d) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal, less the fair market value of the off-premises outdoor advertising immediately after its removal.

- (1) Monetary compensation may be determined based on the following factors:
 - a. The factors listed in G.S. 105-317.1(a).
 - b. The cost of materials and labor used in constructing the advertising.
 - c. The purchase price of the rights to erect and maintain the advertising.
 - d. The income derived from the advertising.
 - e. The sales price of similar property.
 - f. The listed property tax value of the property and any documents regarding value submitted to the taxing authority.
- (2) Unless agreed to by the county, the amount of monetary compensation required to be paid under this section shall not exceed five times the

average amount of the annual gross revenue associated with the off-premises outdoor advertising, less any placement or agency fees, over the preceding five years.

(e) In lieu of monetary compensation, a county may enter into a relocation, reconstruction, or removal agreement with the owner of a nonconforming off-premises outdoor advertising sign. An agreement under this subsection may allow for the removal of the advertising after a set period of time in lieu of monetary compensation. A county may adopt an ordinance or resolution providing for a relocation, reconstruction, or removal agreement.

(f) 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.

(g) If the parties have not entered into an agreement under subsection (e) of this section or agreed to the amount of monetary compensation under subsection (d) of this section within 120 days after the initial notification by the county, the parties shall enter into nonbinding arbitration to resolve their disagreements. The American Arbitration Association rules shall apply to the arbitration. If either party disagrees with the arbitration award, the party may bring an action in superior court to determine the amount of monetary compensation to be paid to the owner of the off-premises outdoor advertising under subsection (d) of this section.

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

(i) This section does not apply to any ordinance in effect on the effective date of this section. A county may amend an ordinance in effect on the effective date of this section so long as the amendment to the existing ordinance does not reduce the period of amortization in effect on the effective date of this section."

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

"§ 160A-199. 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 city 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 city in accordance with the applicable provisions of this Chapter.

(c) No city may enact or amend an ordinance 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 off-premises outdoor advertising. The payment of monetary compensation is not required if:

- (1) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace; or
- (2) The removal is required for road widening or other governmental development projects, and the city allows the off-premises outdoor advertising to be relocated to an equally visible and comparable location.

(d) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal, less the fair market value of the off-premises outdoor advertising immediately after its removal.

- (1) Monetary compensation may be determined based on the following factors:

- a. The factors listed in G.S. 105-317.1(a).
 - b. The cost of materials and labor used in constructing the advertising.
 - c. The purchase price of the rights to erect and maintain the advertising.
 - d. The income derived from the advertising.
 - e. The sales price of similar property.
 - f. The listed property tax value of the property and any documents regarding value submitted to the taxing authority.
- (2) Unless agreed to by the city, the amount of monetary compensation required to be paid under this section shall not exceed five times the average amount of the annual gross revenue associated with the off-premises outdoor advertising, less any placement or agency fees, over the preceding five years.

(e) In lieu of monetary compensation, a city may enter into a relocation, reconstruction, or removal agreement with the owner of a nonconforming off-premises outdoor advertising sign. An agreement under this subsection may allow for the removal of the advertising after a set period of time in lieu of monetary compensation. A city may adopt an ordinance or resolution providing for a relocation, reconstruction, or removal agreement.

(f) A city 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.

(g) If the parties have not entered into an agreement under subsection (e) of this section or agreed to the amount of monetary compensation under subsection (d) of this section within 120 days after the initial notification by the city, the parties shall enter into nonbinding arbitration to resolve their disagreements. The American Arbitration Association rules shall apply to the arbitration. If either party disagrees with the arbitration award, the party may bring an action in superior court to determine the amount of monetary compensation to be paid to the owner of the off-premises outdoor advertising under subsection (d) of this section.

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

(i) This section does not apply to any ordinance in effect on the effective date of this section. A city may amend an ordinance in effect on the effective date of this section to extend application of the ordinance to off-premises outdoor advertising located in territory acquired by annexation or located in the extraterritorial jurisdiction of the city. A city shall not amend an ordinance in effect on the effective date of this section to reduce the period of amortization in effect on the effective date of this section."

SECTION 3. Section 1 of S.L. 2003-432 is repealed.

SECTION 4. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 30th day of
June, 2004.

Beverly E. Perdue
President of the Senate

Richard T. Morgan
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2004