

## **CHAPTER 54-01.1 RELOCATION ASSISTANCE**

### **54-01.1-01. Declaration of policy.**

The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a state agency so that displaced persons will not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement by the acquisition of real property by state and local land acquisition programs, by federally assisted building code enforcement programs, or by a program of voluntary rehabilitation of buildings or other improvements conducted pursuant to governmental supervision. The policy must be uniform as to:

1. Relocation payment;
2. Advisory assistance;
3. Assurance of availability of standard housing; and
4. State reimbursement for local relocation payments under state-assisted and local programs.

### **54-01.1-02. Definitions.**

As used in this chapter:

1. "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. For the purposes of subsection 1 of section 54-01.1-03, 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 the above-mentioned activities are conducted.
2. "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;
  - e. In the area not subject to reasonably adverse environmental conditions; and
  - 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.
3. "Displaced person", except as provided in subdivision c, means:
  - a. Any person who moves from real property or moves the person's personal property from real property:
    - (1) As a direct result of a written notice of intent to acquire or the acquisition of the real property in whole or in part for a program or project undertaken by a displacing agency; or
    - (2) On which the person is a residential tenant or conducts a small business, a farm operation, or a business defined in subdivision d of subsection 1, as a direct result of rehabilitation, demolition, or other displacing activity the state agency prescribes, under a program or project undertaken by a displacing agency in any case in which the displacing agency determines that the displacement is permanent.
  - b. Solely for the purposes of subsections 1 and 2 of section 54-01.1-03 and section 54-01.1-06, any person who moves from real property or moves the person's personal property from real property:

- (1) As a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which the person conducts a business or farm operation, for a program or project undertaken by a displacing agency; or
  - (2) As a direct result of rehabilitation, demolition, or other displacing activity the state agency prescribes, of other real property on which the person conducts a business or a farm operation, under a program or project undertaken by a displacing agency when the displacing agency determines that the displacement is permanent.
- c. The term "displaced person" does not include:
- (1) A person who has been determined, according to criteria established by the state agency, to be either unlawfully occupying the displacement dwelling or to have occupied the dwelling for the purpose of obtaining assistance under this chapter; or
  - (2) In any case in which the displacing 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 the 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.
4. "Displacing agency" means the state, state agency, or person carrying out a federal or state financially assisted program or project that causes a person to be a displaced person.
  5. "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.
  6. "Federally assisted" means receiving federal financial assistance in the form of a grant, loan, or contribution, except any federal guarantee or insurance, or any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.
  7. "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 in which the real property is located, together with the credit instruments, if any, secured thereby.
  8. "Nonprofit organization" means a corporation organized under chapter 10-33 or an organization defined in subsection 7, 8, 9, 10, or 11 of section 57-02-08.
  9. "Person" means any individual, partnership, corporation, limited liability company, or association.
  10. "State 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.

**54-01.1-03. Moving and related expenses.**

1. Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment to the displaced person of:
  - a. Actual, reasonable expenses in moving the displaced person and the displaced person's family, business, farm operation, or other personal property;
  - b. Actual, direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the state agency;
  - c. Actual, reasonable expenses in searching for a replacement business or farm; and

- d. Actual, reasonable expenses necessary to re-establish a displaced farm, nonprofit organization, or small business at its new site, as determined by criteria established by the state agency.
2. Any displaced person eligible for payments under subsection 1 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 1 may receive a moving expense allowance, determined according to a schedule established by the state agency.
3. Any displaced person eligible for payments under subsection 1, who is displaced from the person's place of business or farm operation and is eligible under criteria established by the state agency, may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1. The payment must consist of a fixed payment in an amount to be determined according to criteria established by the state agency. A person whose sole business at the displacement dwelling is the rental of the property to others does not qualify for a payment under this subsection.

**54-01.1-04. Replacement housing for homeowners.**

1. In addition to payments otherwise authorized by this chapter, the displacing agency shall make an additional payment not in excess of twenty-two thousand five hundred dollars to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of the property. The additional payment must include the following elements:
  - a. The amount, if any, which, when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling;
  - b. The amount, if any, which will compensate the displaced person for any increased interest costs and other debt service costs which the person is required to pay for financing the acquisition of a comparable replacement dwelling. The amount may be paid only if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of the dwelling; and
  - c. Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.
2. The additional payment authorized by this section may be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which the displaced person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under section 54-01.1-07 is met, whichever is the later date, except that the displacing agency may extend the period for good cause. If the period is extended, the payment under this section must be based on the costs of relocating the person to a comparable replacement dwelling within one year of such date.

**54-01.1-05. Replacement housing for tenants and certain others.**

1. In addition to amounts otherwise authorized by this chapter, a displacing agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 54-01.1-04, which dwelling was actually and lawfully occupied by the displaced person for not less than ninety days prior to:
  - a. The initiation of negotiations for acquisition of such dwelling; or
  - b. In any case in which displacement is not a direct result of acquisition, such other event as the state agency may prescribe.The payment must consist of the amount necessary to enable the person to lease or rent for a period not to exceed forty-two months, a comparable replacement dwelling, but not to exceed five thousand two hundred fifty dollars. At the discretion of the

displacing 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 must take into account such person's income.

2. Any person eligible for a payment under subsection 1 may elect to apply the payment to a downpayment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. At the discretion of the displacing agency, any such person may be eligible under this subsection for the maximum payment allowed under subsection 1, except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least ninety days but not more than one hundred eighty days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment may not exceed the payment the person would otherwise have received under subsection 1 of section 54-01.1-04 had the person owned and occupied the displacement dwelling one hundred eighty days immediately prior to the initiation of such negotiations.

**54-01.1-06. Relocation assistance advisory programs.**

1. Whenever the acquisition of real property for a program or project undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services prescribed in subsection 2. If the displacing agency determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury because of the acquisition, it may offer the person relocation advisory services under the program.
2. Each relocation assistance program required by subsection 1 must include such measures, facilities, or services as may be necessary or appropriate in order:
  - a. To determine, and make timely recommendations on, the needs of displaced persons for relocation assistance;
  - b. To assist owners of displaced businesses and farm operations in obtaining and becoming established in suitable business locations or replacement farms;
  - c. To supply:
    - (1) Information concerning programs of the federal, state, and local governments offering assistance to displaced persons and business concerns; and
    - (2) Technical assistance to such persons in applying for assistance under such programs;
  - d. To assist in minimizing hardships to displaced persons in adjusting to relocation;
  - e. To secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of the relocation program; and
  - f. To provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations.
3. Programs or projects undertaken by a displacing agency must be planned in a manner that:
  - a. Recognizes, at an early stage in the planning of such programs or projects and before the commencement of any actions that will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations; and
  - b. Provides for the resolution of such problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.
4. Notwithstanding subsection 3 of section 54-01.1-02, in any case in which a displacing agency acquires property for a program or project, any person who occupies that 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, is eligible for advisory services to the extent determined by the displacing agency.

**54-01.1-07. Assurance of availability of housing.**

1. If a program or project undertaken by a displacing agency cannot proceed on a timely basis because comparable replacement dwellings are not available and the head of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The displacing agency may use this section to exceed the maximum amounts that may be paid under sections 54-01.1-04 and 54-01.1-05 on a case-by-case basis for good cause as determined in accordance with section 54-01.1-08 regulations issued by the state agency.
2. No person may be required to move from a dwelling on account of any program or project undertaken by the displacing agency unless the displacing agency is satisfied that comparable replacement housing is available to the person.
3. The displacing agency shall assure that a person will not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of:
  - a. A major disaster as defined in section 102(2) of the Federal Disaster Relief Act of 1974;
  - b. A national emergency declared by the president; or
  - c. Any other emergency that requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person.

**54-01.1-08. Adoption of rules and regulations.**

State agencies may consult with the department of commerce division of community services to establish regulations and procedures for implementation of the provisions of this chapter and to establish such regulations and procedures necessary to assure:

1. That the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable and as uniform as practicable;
2. That a displaced person who makes proper application for a payment authorized by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and
3. That any displaced person aggrieved by a determination as to eligibility for a payment, or as to the amount of a payment, may have the application reviewed by the head or governing body of the state agency.

**54-01.1-09. Administration.**

In order to prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the state agency may enter into contracts with any individual, firm, association, corporation, or limited liability company for services in connection with those programs, or may carry out its functions under this chapter through any federal agency or any department or instrumentality of the state or its political subdivisions having an established organization for conducting relocation assistance programs. The state agency shall, in carrying out relocation activities described in section 54-01.1-08, whenever practicable, utilize the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

**54-01.1-10. Fund availability.**

Funds appropriated or otherwise available to any state agency for the acquisition of real property or any interest therein for a particular program or project shall also be available to carry out the provisions of this chapter as applied to that program or project. No payment or

assistance under this chapter is required to be made to any person or included as a program or project cost under this section, if the person receives a payment required by federal, state, or local law which is determined by the state agency to have substantially the same purpose effect as the payment under this chapter.

**54-01.1-11. State participation in cost of local relocation payments and services.**

If a political subdivision acquires real property, and state financial assistance is available to pay the cost, in whole or part, of the acquisition of that real property, or of the improvement for which the property is acquired, the cost to the political subdivision of providing the payments and services prescribed by this chapter must be included as part of the costs of the project for which state financial assistance is available and the political subdivision shall be eligible for state financial assistance for relocation payments and services in the same manner and to the same extent as other project costs.

**54-01.1-12. Displacement by federally assisted building code enforcement or by voluntary rehabilitation.**

A person who moves or discontinues a business or moves other personal property, or moves from a dwelling as the direct result of a federally assisted building code enforcement program, or of a program of rehabilitation of buildings conducted pursuant to a governmental program, is deemed to be a displaced person for the purposes of this chapter.

**54-01.1-13. Payments not to be considered as income or resources.**

No payment received by a displaced person under this chapter may be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law, or for the purposes of the state's personal income tax law, corporation tax law, or other tax laws. These payments may not be considered as income or resources of any recipient of public assistance and the payments may not be deducted from the amount of aid to which the recipient would otherwise be entitled.

**54-01.1-14. Appeal procedure.**

Any person or business concern aggrieved by a final administrative determination pursuant to chapter 28-32 concerning eligibility for relocation payments authorized by this chapter may appeal that determination to the district court in the judicial district in which the land taken for public use is located or the voluntary rehabilitation program is conducted.

**54-01.1-15. Payments not element of condemnation damages.**

Nothing in this chapter may be construed as creating, in any condemnation proceedings brought under the power of eminent domain, any element of value or damage not in existence prior to July 1, 1973.

**54-01.1-16. Real property acquisition policies.**

Any state agency engaged in a federally assisted program or project involving the acquisition of real property must be guided, to the greatest extent practicable under state law, by the real property acquisition policies set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [Pub. L. 91-646; 42 U.S.C. 4651-4654] and the 1987 amendments enacted in title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 [Pub. L. 100-17; 101 Stat. 255-256].