

Article 2.

Relocation Assistance.

**§ 133-5. Short title.**

This Article shall be cited as "The Uniform Relocation Assistance and Real Property Acquisition Policies Act." (1971, c. 1107, s. 1.)

**§ 133-6. Declaration of purpose.**

The purpose of this Article is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of public works programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole and to insure continuing eligibility for federal aid funds to the State and its agencies and subdivisions. (1971, c. 1107, s. 1.)

**§ 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 the premises on which any of the above activities are conducted.
- (3) a. "Displaced person" means, except as provided in subdivision (a)(ii)–
  - (i) Any person who moves from real property, or moves his personal property from real property – (A) as a direct result of a written notice of intent to acquire or the acquisition of such real property in whole or in part for a program or project undertaken by an agency; or (B) on which such person is a residential tenant or conducts a small business, a farm operation, or business defined in G.S. 133-7(2)(d) 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
  - (ii) Solely for the purposes of G.S. 133-8(a) and (b) and G.S. 133-11, any person who moves from real property, or moves his

personal property from real property – (A) 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 such person conducts a business or farm operation, for a program or project undertaken by an agency; or (B) as a direct result of rehabilitation, demolition, or such other displacing activity as the agency may prescribe, of other real property on which such person conducts a business or farm operation, under a program or project undertaken by an agency where the agency determines that such displacement is permanent.

- b. The term "displaced person" does not include –
  - (i) A person who has been determined, according to criteria established by the agency, to be either unlawfully occupying the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this Article;
  - (ii) 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.
- (4) "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.
- (5) "Person" means any individual, partnership, corporation or association.
- (6) "Program or project" for the purpose of this Article shall mean any construction or rehabilitation project undertaken by an agency, as herein defined or the utilization of real property by an agency for any other public purposes, and to which program or project the agency makes this Article applicable.
- (7) "Relocation officer" means the head of the department delegated the authority to carry out relocation policies by the agency.
- (8) "Comparable replacement dwelling" means any dwelling that is (i) decent, safe, and sanitary; (ii) adequate in size to accommodate the occupants; (iii) within the financial means of the displaced person; (iv) functionally equivalent; (v) in an area not subject to unreasonably adverse environmental conditions; and (vi) 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.
- (9) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.
- (10) "Lead agency" means the North Carolina Department of Transportation. The lead agency shall issue such rules and regulations as may be necessary to carry

out this Article and to comply with federal aid regulations. (1971, c. 1107, s. 1; 1989, c. 28, s. 1.)

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

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

- (1) Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;
- (2) 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 relocation officer; and
- (3) Actual reasonable expenses in searching for a replacement business or farm in accordance with criteria established by the lead agency, but not to exceed two thousand five hundred dollars (\$2,500); and
- (4) Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, in accordance with criteria to be established by the lead agency, but not to exceed ten thousand dollars (\$10,000).

(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 an expense and dislocation allowance, which shall be determined according to a schedule established by the lead agency.

(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 lead 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 lead agency, except that such payment shall not be less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$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. (1971, c. 1107, s. 1; 1989, c. 28, s. 2; 2005-331, s. 1.)

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

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

- (1) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the agency, equals the reasonable cost of a comparable replacement dwelling. All determinations required to carry out this section shall be made in accordance with standards established by the lead agency.

- (2) The amount, if any, which will compensate such displaced person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling in accordance with criteria to be established by the lead agency.
- (3) Reasonable expenses incurred by such 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.

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

(c) The agency may, in cooperation with any federal agency upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, which mortgage is eligible for insurance under any federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage. (1971, c. 1107, s. 1; 1981, c. 101, s. 1; 1989, c. 28, s. 3.)

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

(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. (1971, c. 1107, s. 1; 1981, c. 101, s. 2; 1989, c. 28, s. 4.)

**§ 133-10.1. Authorization for replacement housing.**

(a) 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 State of North Carolina and its agencies 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 proposed purchase, and a brief description of the factors upon which the agency has based its determination that such housing is not otherwise available, and
- (3) Sell or lease the premises to the displaced person upon such terms as the agency deems necessary.
- (4) Exceed the limitation in G.S. 133-9(a) and 133-10.

(b) Cities, counties and other local governments and agencies may comply with and provide assistance authorized under the Federal Uniform Relocation and Real Property Acquisition Policy Act of 1970, as amended, for last resort housing. (1975, c. 515; 1981, c. 101, ss. 3, 4; 1989, c. 28, s. 5.)

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

(a) Programs or projects undertaken by an agency shall be planned in a manner that (1) recognizes, at any early stage in the planning of such programs or projects and before the commencement of any actions which will cause displacements of individuals, families, businesses, and farm operations, and (2) 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.

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

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

- (1) Determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;
- (2) 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) Assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

- (4) Supply (i) information concerning federal, State, and local programs which may be of assistance to displaced persons, and (ii) technical assistance to such persons in applying for assistance under such programs;
- (5) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation; and
- (6) The agency shall coordinate relocation activities performed by such agency with other federal, State, or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

(d) Notwithstanding G.S. 133-7(3)b, in any case in which a displacing agency acquires property for a program or project, any person 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 shall be eligible for advisory services to the extent determined by the agency. (1971, c. 1107, s. 1; 1989, c. 28, s. 6.)

#### **§ 133-12. Expenses incidental to transfer of property.**

(a) In addition to amounts otherwise authorized by this Article, the agency is authorized to reimburse or to pay on behalf of the owners of real property acquired for a program or project for reasonable and necessary expenses incurred for:

- (1) Recording fees, transfer taxes, and similar expenses incidental to conveying such property;
- (2) Penalty costs for prepayment of any preexisting mortgage recorded and entered into in good faith encumbering such real property; and
- (3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to vesting of title in the agency, or the effective date of possession of such real property by the agency, whichever is earlier.

(b) Local taxing authorities shall accept prepayment of the agency's estimate of the amount of any taxes not levied but constituting a lien against real estate acquired by the agency, or the agency's estimate of its pro rata portion of such taxes, and such prepayment shall be applied to such taxes upon levy being made. (1971, c. 1107, s. 1.)

#### **§ 133-13. Administration.**

(a) The agency may enter into contracts with any individual, firm, association or corporation for services in connection with relocation assistance programs.

(b) The agency shall in carrying out relocation assistance activities utilize, whenever practicable, the services of other State or local agencies having experience in the administration or conduct in similar housing assistance activities.

(c) In acquisition of right-of-way for any State highway project, a municipality making the acquisition shall be vested with the same authority to render such services and to make such payments as is given the Board of Transportation in this Article. Such municipalities furnishing right-of-way are authorized to enter into contracts with any other municipal corporation, or State or federal agency, rendering such services. (1971, c. 1107, s. 1; 1973, c. 507, s. 5.)

#### **§ 133-14. Regulations and procedures.**

The agency is authorized to adopt such rules and regulations as it deems necessary and appropriate to carry out the provisions of this Article. The agency is authorized and empowered to

adopt all or any part of applicable federal rules and regulations which are necessary or desirable to implement this Article. Such rules and regulations shall include, but not be limited to, provisions relating to:

- (1) Payments authorized by this Article to assure that such payments shall be fair and reasonable and as uniform as possible on those projects to which this Article is applicable;
- (2) Prompt payment after a move to displaced persons who make proper application and are entitled to payment, or, in hardship cases, payment in advance;
- (3) Moving expense and allowances as provided for in G.S. 133-8;
- (4) Standards for decent, safe and sanitary dwelling;
- (5) Eligibility of displaced persons for relocation assistance payments, the procedure for such persons to claim such payments, and the amounts thereof;
- (6) Procedure for an aggrieved displaced person to have his determination of eligibility or amount of payment reviewed by the agency head or its administrative officer; [and]
- (7) Projects or classes of projects on which payments as herein provided will be made. (1971, c. 1107, s. 1; 1973, c. 1446, s. 8.)

**§ 133-15. Payments not to be considered as income.**

No payment received under this Article shall be considered as income for the purposes of the State income tax law; nor shall such payments be considered as income or resources to any recipient of public assistance and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under the provisions of Chapter 108 of the General Statutes. (1971, c. 1107, s. 1.)

**§ 133-16. Real property furnished to the federal government.**

Whenever real property is acquired by an agency and furnished as a required contribution to a federal project, the agency has the authority to make all payments and to provide all assistance in the same manner and to the same extent as in cases of acquisition by the agency of real property for a federal aid project. (1971, c. 1107, s. 1.)

**§ 133-17. Administrative payments.**

Nothing contained in this Article shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of damages not in existence on the date of enactment of this Article. Payments made and services rendered under this Article are administrative payments and in addition to just compensation as provided by the law of eminent domain. Nothing contained in this Article shall be construed as creating any right enforceable in any court and the determination of the agency under the procedure provided for in G.S. 133-14 shall be conclusive and not subject to judicial review. (1971, c. 1107, s. 1.)

**§ 133-18. Additional payments by political subdivision.**

The additional payments required under G.S. 133-8, 133-9, and 133-10 shall not be mandatory for political subdivisions of the State unless federal law makes such payments a condition of federal funding. (1989, c. 28, s. 7.)

**§§ 133-19 through 133-22. Reserved for future codification purposes.**