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CHAPTER 15

Relocation Assistance

**SECTION 55‑15‑10.** Definitions.

 As used in this chapter:

 (a) The term “person” means (1) any individual, partnership, corporation or association which is the owner of a business; (2) any owner, part owner, tenant, or sharecropper who operates a farm; (3) an individual who is the head of a family; or (4) an individual not a member of a family.

 (b) The term “family” means two or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship.

 (c) The term “displaced person” means any person who moves from real property as a result of the acquisition or reasonable expectation of acquisition of such real property, which may have been or is subsequently acquired, in whole or in part, for an airport, or as the result of the acquisition for an airport of other real property on which such person conducts a business or farm operation.

 (d) The term “business” means any lawful activity conducted primarily (1) for the purchase and resale, manufacture, processing, or marketing of products, commodities or any other personal property; (2) for the sale of services to the public; or (3) by a nonprofit organization.

 (e) The term “farm operation” means any activity conducted solely or primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

 (f) The term “public authority” means the Division of Aeronautics of the Budget and Control Board, a municipality, a county or other political subdivision of this State, separately or jointly, authorized to acquire land, air rights, safety markers, and lights as provided in Chapter 9, Title 55.

HISTORY: 1962 Code Section 2‑150; 1973 (58) 388; 1993 Act No. 181, Section 1296, eff July 1, 1993; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑20.** Payments to displaced persons.

 (a) Whenever the acquisition of real property for a program or project undertaken by a public authority will result in the displacement of any person, the public authority shall make a payment to any displaced person upon proper application as approved by the public authority 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 public authority; and

 (3) actual reasonable expenses in searching for a replacement business or farm.

 (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 a moving expense allowance, determined according to a schedule established by the public authority not to exceed three hundred dollars; and a dislocation allowance of two hundred dollars.

 (c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business no payment shall be made under this subsection unless the public authority is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the public authority, which is engaged in the same or similar business. For the purposes of this subsection, the term “average annual net earnings” means one half of any net earnings of the business or farm operation, before federal, state, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the public authority determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

HISTORY: 1962 Code Section 2‑150.1; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑30.** Additional payments for owners who occupy property.

 (1) In addition to payments otherwise authorized by this chapter, the public authority shall make an additional payment not in excess of fifteen thousand dollars to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall 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 which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the public authority.

 (b) The amount, if any, which will compensate such displaced person for any increased interest 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 was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be determined by regulations issued pursuant to Section 55‑15‑70.

 (c) 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.

 (2) The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one‑year period beginning on the date on which he receives final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

HISTORY: 1962 Code Section 2‑150.2; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑40.** Additional payments for certain other persons.

 In addition to amounts otherwise authorized by this chapter, the public authority shall make a payment to or for any displaced person from any dwelling not eligible to receive a payment under Section 55‑15‑30 which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either:

 (1) the amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, 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, and reasonably accessible to his place of employment, but not to exceed four thousand dollars; or

 (2) the amount necessary to enable such person to make a down payment (including incidental expenses described in Section 55‑15‑30(1)(c) 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, except that if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment.

HISTORY: 1962 Code Section 2‑150.3; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑50.** Relocation advisory assistance programs.

 (a) Whenever the acquisition of real property for a program or project undertaken by the public authority will result in the displacement of any person, the public authority shall provide a relocation assistance advisory program for displaced persons which shall offer the services prescribed herein. If the public authority determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer such person relocation advisory services under such program.

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

 (1) determine the need, if any, of displaced persons for relocation assistance;

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

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

 (4) supply information concerning federal, state and local housing programs, disaster loan programs, and other federal, state or local programs offering assistance to displaced persons;

 (5) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation;

 (6) 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.

HISTORY: 1962 Code Section 2‑150.4; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑60.** Available dwellings shall be assured for displaced persons.

 Whenever the acquisition of real property for a program or project undertaken by the public authority will result in the displacement of any person, the public authority shall assure that, within a reasonable period of time, prior to displacement there will be available, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment; except that regulations issued pursuant to Section 55‑15‑70 may prescribe situations when these assurances may be waived.

HISTORY: 1962 Code Section 2‑150.5; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑70.** Rules and regulations.

 (a) The public authority shall adopt such rules and regulations as may be 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 for such person by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

 (3) that any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment may have his application reviewed by the public authority.

 (b) the public authority may prescribe such other regulations and procedures, consistent with the provisions of this chapter, as it deems necessary or appropriate to carry out this chapter.

HISTORY: 1962 Code Section 2‑150.6; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑80.** Contracts for carrying out relocation assistance programs.

 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 public authority may authorize any state agency to enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this chapter through any federal or state agency or instrumentality having an established organization for conducting relocation assistance programs.

HISTORY: 1962 Code Section 2‑150.7; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑90.** Use of funds.

 Funds appropriated or otherwise available to the public authority for the acquisition of real property or any interest therein for a particular program or project shall be available also for obligation and expenditure to carry out the provisions of this chapter as applied to that program or project.

HISTORY: 1962 Code Section 2‑150.8; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑100.** Payments shall not be considered as income or resources.

 No payment received by a displaced person under this chapter shall 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. Such payments shall not be considered as income or resources of 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.

HISTORY: 1962 Code Section 2‑150.9; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑110.** Condemnation procedure and requirements.

 (1) The public authority, upon acquisition of real property under the eminent domain or condemnation laws of this State, shall as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the public authority deems fair and reasonable, for expenses he necessarily incurred for (a) recording fees, transfer taxes, and similar expenses incidental to conveying such real property; (b) penalty costs for prepayment for any preexisting recorded mortgage entered into in good faith encumbering such real property; and (c) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title or the effective date of possession of such real property in the taking authority whichever is the earlier.

 (2) Where a condemnation proceeding is instituted by the public authority under the laws of this State to acquire real property and (a) the final judgment is that the real property cannot be acquired by condemnation or (b) the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid by the public authority such sum as will, in the opinion of the public authority, reimburse such owner for his reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceeding.

 (3) Where an inverse condemnation proceeding is instituted by the owner of any right, title, or interest in real property, the court, rendering a judgment for the plaintiff in such proceeding and awarding compensation for the taking of property, or the public authority’s attorney effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or the public authority’s attorney, reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred because of such proceeding.

 (4) The public authority, in acquiring real property which they have the power to acquire under the eminent domain or condemnation laws of this State shall comply with the following policies:

 (a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

 (b) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

 (c) Before the initiation of negotiations for real property, an amount must be established which it is reasonably believed is just compensation for it and the amount must be offered for the property. In no event shall the amount be less than the approved appraisal of the fair market value of such property. Any decrease or increase of the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

 (d) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

 (e) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling, assuming a replacement dwelling will be available, or to move his business or farm operation without at least ninety days’ written notice from the date by which such move is required.

 (f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short‑term occupier.

 (g) In no event shall the time of condemnation be advanced, on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

 (h) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The public authority shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

 (i) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

 (5)(a) Where any interest in real property is acquired, an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from such real property or which is determined to be adversely affected by the use to which such real property will be put shall be acquired.

 (b) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired as above set forth, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, must be paid to the tenant for it.

 (c) Payment for such buildings, structures, or improvements as set forth above shall not result in duplication of any payments otherwise authorized by state law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release all his right, title, and interest in and to such improvements. Nothing with regard to the above‑mentioned acquisition of buildings, structures, or other improvements shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for such property interests in accordance with other laws of this State.

HISTORY: 1962 Code Section 2‑150.11; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.

**SECTION 55‑15‑120.** Chapter shall not affect certain elements of value or damage.

 Nothing in Sections 55‑15‑10 to 55‑15‑120 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to June 15, 1973.

HISTORY: 1962 Code Section 2‑150.10; 1973 (58) 388; 2012 Act No. 270, Section 7, eff June 18, 2012.