CHAPTER 11

Relocation Assistance

**SECTION 28‑11‑10.** Payments and assistance to displaced persons or other entities.

To the extent that the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91‑646) makes relocation payments and assistance to displaced persons or other legal entities by states a prerequisite to Federal aid to such states in programs or projects involving the acquisition of real property for public uses, as such terms are defined in such Federal law, State agencies and instrumentalities and political subdivisions and local government agencies and instrumentalities involved in such programs or projects are empowered to expend available public funds for such purposes and are required to make such payments to such displaced persons or other legal entities, whether the program or project is federally aided or not, and such expenditures shall be deemed part of the cost of such program or project.

HISTORY: 1962 Code Section 25‑181; 1972 (57) 2522.

CROSS REFERENCES

Applicability of this section to persons displaced by redevelopment plans, see Section 31‑6‑90.

Library References

Eminent Domain 95.

Westlaw Topic No. 148.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Damages Section 55, Eminent Domain.

S.C. Jur. Eminent Domain Section 22.1, Relocation Assistance.

LAW REVIEW AND JOURNAL COMMENTARIES

Aircraft Noise: The Taking of Private Property Without Just Compensation. 18 S.C. L. Rev. 593.

Eminent Domain. 22 S.C. L. Rev. 539.

Eminent Domain. 25 S.C. L. Rev. 454.

Eminent Domain: Damages. 24 S.C. L. Rev. 622.

Eminent Domain: Statute of Limitations. 24 S.C. L. Rev. 624.

Eminent Domain: “Taking” of Private Property. 24 S.C. L. Rev. 622.

Attorney General’s Opinions

South Carolina law allows the Highway Department to do only those acts mandated by federal law in order to receive federal reimbursement. Since the purchase, construction or leasing of housing of last resort is not a prerequisite to federal aid, the Department would have no authority to take such action under existing state statutes. Therefore, the Department cannot by agreement, purchase, or condemnation, own or otherwise control living units used by persons displaced by right‑of‑way acquisition. 1975‑76 Op. Atty Gen, No 4338, p 162.

An opinion dated November 21, 1975, regarding relocation assistance to displaced persons, cannot be said to be clearly erroneous in light of the title of Act No. 1345 of 1972, Sections 28‑11‑10 et seq. The requirements of Section 28‑11‑10 of the Code must still be followed where several families will be displaced in the acquisition of property for the construction of a multi‑government center for Beaufort County. 1986 Op. Atty Gen, No. 86‑111, p 332.

Neither the State nor its political sub‑division owes any duty to commercial lessees for relocation payments or other assistance. 1974‑75 Op. Atty Gen, No.4168, p 229.

The Dillon City‑County Building Commission has the duty of relocating commercial occupants of a county‑owned building to be demolished. 1974‑75 Op. Atty Gen, No. 4199, p 247.

NOTES OF DECISIONS

In general 1

1. In general

Tenants, who were forced to relocate after a city acquired premises they were leasing by the power of eminent domain, were entitled to moving costs and rent differential payments under Section 28‑11‑10, since the statute applies to any public project undertaken by a state or municipal government, even when there is no federal funding. Brown v. City of North Charleston (S.C.App. 1994) 314 S.C. 298, 442 S.E.2d 633.

Tenants, who sued to recover moving costs and rent differential payments under Section 28‑11‑10, were entitled to attorney fees under Section 15‑77‑300, since the language of Section 28‑11‑10 plainly foreclosed the legal position taken by city in the tenant’s lawsuit, and thus the city acted without substantial justification in pressing its claim. Brown v. City of North Charleston (S.C.App. 1994) 314 S.C. 298, 442 S.E.2d 633.

**SECTION 28‑11‑20.** Costs incurred before July 1, 1972.

Where Federal funds are available for payment of such relocation costs, such costs may be paid by such State and local government agencies and instrumentalities and political subdivisions even though they occurred prior to July 1, 1972.

HISTORY: 1962 Code Section 25‑182; 1972 (57) 2522.

Library References

Eminent Domain 95.

Westlaw Topic No. 148.

**SECTION 28‑11‑30.** Reimbursement of property owners for certain expenses.

To the extent that Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91‑646) makes certain requirements pertaining to the acquisition of real property by states prerequisites to federal aid to such states in programs or projects involving the acquisition of real property for public uses, state agencies and instrumentalities and political subdivisions and local government agencies and instrumentalities involved in these programs or projects may expend available public funds as provided in this section, whether or not the program or project is federally aided.

(1) A person, agency, or other entity acquiring real property for public use in a project or program 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 State deems fair and reasonable, for expenses he necessarily incurred for:

(a) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the State;

(b) penalty costs for prepayment for 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 in the agency concerned, or the effective date of possession of such real property by such agency, whichever is the earlier.

(2) Where a condemnation proceeding is instituted by the agency to acquire real property for such use 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 such sum as will, in the opinion of the agency, reimburse such owner for his reasonable attorney, appraisal, and engineering fees actually incurred because of the condemnation proceedings. The award of these sums will be paid by the person, agency, or other entity which sought to condemn the property.

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

(4) Reestablishment expenses related to the moving of a small business, farm, or nonprofit organization payable for transportation projects pursuant to federal guidelines and regulations may be paid in an amount up to fifty thousand dollars, notwithstanding a lower limitation imposed by federal regulations.

HISTORY: 1962 Code Section 25‑183; 1972 (57) 3105; 2010 Act No. 184, Section 1, eff May 28, 2010.

Effect of Amendment

The 2010 amendment added subsection (4) and made other nonsubstantive changes.

Library References

Eminent Domain 95.

Westlaw Topic No. 148.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Costs Section 46, Condemnation Actions.

Forms

South Carolina Litigation Forms and Analysis Section 3:57 , Inverse Condemnation.

LAW REVIEW AND JOURNAL COMMENTARIES

Recovery of Attorneys’ Fees as Costs or Damages in South Carolina. 38 S.C. L. Rev. 823.

**SECTION 28‑11‑40.** Contracts between governmental agencies.

Any such State or local government agency or instrumentality or political subdivision of the State may contract with any other State or local government agency or instrumentality or political subdivision of the State to carry out its functions under this chapter but none shall be required to do so.

HISTORY: 1962 Code Section 25‑184; 1972 (57) 2522.

Library References

Eminent Domain 95.

Westlaw Topic No. 148.

**SECTION 28‑11‑50.** Promulgation of rules and regulations.

Each State or local government agency or instrumentality or political subdivision of the State may promulgate such rules and regulations as are necessary to carry out the provisions of this chapter.

HISTORY: 1962 Code Section 25‑185; 1972 (57) 2522.

Library References

Eminent Domain 95.

Westlaw Topic No. 148.

**SECTION 28‑11‑60.** Impact for purposes of income tax or public assistance eligibility.

No payment received by a person or other legal entity hereunder shall be considered as income or resources for tax purposes or for any purpose related to public assistance received by or due to such person or other legal entity.

HISTORY: 1962 Code Section 25‑186; 1972 (57) 2522, 3105.

Library References

Social Security and Public Welfare 4.12.

Taxation 3451.

Westlaw Topic Nos. 356A, 371.

C.J.S. Social Security and Public Welfare Sections 28 to 33, 52 to 53.

**SECTION 28‑11‑70.** Chapter does not create element of damage in eminent domain.

Nothing in this chapter shall be construed as creating an element of damage in an eminent domain proceeding.

HISTORY: 1962 Code Section 25‑187; 1972 (57) 2522.

CROSS REFERENCES

Effect of article on relocation assistance to persons displaced by airport construction on question of value or damages in condemnation proceedings, see Section 55‑15‑120.

Library References

Eminent Domain 95, 140.

Westlaw Topic No. 148.