

NORTH CAROLINA GENERAL ASSEMBLY  
1969 SESSION

CHAPTER 733  
SENATE BILL 719

1 AN ACT TO PROVIDE RELOCATION ASSISTANCE TO INDIVIDUALS, FAMILIES  
2 AND BUSINESS DISPLACED BY HIGHWAY CONSTRUCTION.  
3

4 The General Assembly of North Carolina do enact:  
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6 **Section 1.** This Act may be cited as the Highway Relocation Assistance Act.

7 **Sec. 2.** Declaration of Purpose

8 The General Assembly hereby finds and declares that it is in the public interest that  
9 the State Highway Commission be authorized to fairly compensate those persons displaced by  
10 the construction of highways for certain expenses incurred and for certain inconveniences  
11 suffered as a result of highway programs designed for the benefit of the public as a whole and  
12 to provide relocation assistance in order to insure that a few individuals do not suffer  
13 disproportionate injuries as a result of displacement caused by the highway program, and to  
14 insure adequate housing for those persons displaced, and further to insure continuing eligibility  
15 for federal aid highway funds to the State in accordance with the provisions of the Federal Aid  
16 Highway Act of 1968. The General Assembly further finds and declares that relocation  
17 assistance and assistance in the acquisition of adequate replacement housing are proper costs  
18 for the acquisition of right-of-way for highways and the construction of designated highways  
19 on the State Highway System.

20 **Sec. 3.** Definitions as used in this Act

- 21 (a) "Person" shall mean (1) any individual, partnership, corporation or  
22 association which is the owner of a business; (2) any owner, part owner,  
23 tenant, or sharecropper operating a farm; (3) an individual who is the head of  
24 a family; or (4) an individual not a member of a family.
- 25 (b) "Family" shall mean two or more individuals living together in the same  
26 dwelling unit who are related to each other by blood, marriage, adoption or  
27 legal guardianship.
- 28 (c) "Displaced person" shall mean any person who moves from real property on  
29 or after the effective date of this Act as a result of the acquisition or  
30 reasonable expectation of acquisition of such real property, which is  
31 subsequently acquired, in whole or in part, for highway purposes or as the  
32 result of the acquisition for highway purposes of other real property on  
33 which such person conducts a business or farm operation.
- 34 (d) "Business" shall mean any lawful activity conducted primarily (1) for the  
35 purchase and resale, manufacture, processing, or marketing of products,  
36 commodities or any other personal property; (2) for the sale of services to  
37 the public; or (3) by a nonprofit organization.
- 38 (e) "Farm operation" shall mean any activity conducted solely or primarily for  
39 the production of one or more agricultural products or commodities for sale  
40 and home use, and customarily producing such products or commodities in  
41 sufficient quantity to be capable of contributing materially to the operator's  
42 support.

43 **Sec. 4.** Administration of Relocation Assistance Program

In order to prevent unnecessary expenses and duplication of functions, the State Highway Commission may make relocation payments or provide relocation assistance or otherwise carry out the functions authorized under this Act by utilizing the facilities, personnel, and services of any other Federal, State or local governmental agency having an established organization for conducting relocation assistance programs. Cities furnishing right of way for a State Highway Project may utilize services of the State or Federal Government. In the acquisition of right of way for any State Highway System street, the municipality shall be vested with the same authority to render such services and make such payments as is given the State Highway Commission in this Article.

#### **Sec. 5. Relocation Services**

The State Highway Commission is authorized to provide a relocation advisory assistance program which shall include such measures, facilities, or services as may be necessary or appropriate:

- (a) To determine the needs for relocation, if any, of families, individuals, business concerns, and farm operators to be relocated by reason of a State Highway Project;
- (b) To assure that within a reasonable period of time prior to displacement, there will be available to the extent as can be reasonably accomplished a sufficient amount of housing meeting the standards to satisfy the State Highway Commission for decent, safe and sanitary dwellings, reasonably accessible to the places of employment of the families and individuals displaced and in areas which are generally at least as desirable as the areas in which they are displaced, in regard to public utilities and public and commercial utilities and at rent or prices within the financial means of families and individuals displaced from their homes;
- (c) To assist owners of displaced businesses and displaced farm operators in obtaining and becoming established in suitable locations; and
- (d) To supply information concerning the Federal Housing Administration home acquisition program under Section 221(d)(2) of the National Housing Act, the small business disaster loan program under Section 7(b)(3) of the Small Business Act, and other programs of the Federal Government and the State.

#### **Sec. 6. Relocation Payments**

(a) Payments for Actual Expenses: As part of the cost of right of way acquisition for a highway construction project, the State Highway Commission may compensate displaced persons for the actual and reasonable expenses for the relocation of a household and for the relocation of a business including farm operations and nonprofit organizations.

(b) Optional Payments (Dwellings): Any person displaced from a dwelling who moves and elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this Section may receive:

- (1) A moving expense allowance, determined according to a schedule established by the State Highway Commission not to exceed two hundred dollars (\$200.00) and;
- (2) A dislocation allowance in the amount of one hundred dollars (\$100.00).

(c) Optional Payments (Business and Farm Operations): Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this Section in lieu of the payment authorized by subsection (a) of this Section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation or five thousand dollars (\$5,000.00), whichever is the lesser. In the case of a business, no payment shall be made under this subsection unless the State Highway Commission is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not part of a commercial enterprise having at least one

other establishment, not being acquired by the State or by the United States, which is engaged in the same or similar business. For 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, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such two-year period. To be eligible for the payment authorized by this subsection, the business or farm operation must make its State income tax returns available and its financial statements and accounting records available for audit for confidential use to determine the payment authorized by this subsection.

#### **Sec. 7. Replacement Housing**

(a) In addition to amounts otherwise authorized by this Article, as part of the cost of right of way acquisition, the State Highway Commission may make a payment to the owner of real property acquired for a project which is improved by a single-, two-, or three-family dwelling actually occupied by the owner for not less than one year prior to the initiation of negotiations for the acquisition of such property. Such payment, not to exceed five thousand dollars (\$5,000,001, shall be the amount, if any, which when added to the acquisition payment, equals the average price required for a comparable dwelling determined in accordance with standards established by the State Highway Commission to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market. Such payment shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which he is required to move from the dwelling acquired for the project.

(b) In addition to payments otherwise authorized by this Act, the State Highway Commission is authorized to make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (a) of this Section which dwelling was actually and lawfully occupied by such individual or family for not less than ninety days prior to the initiation of negotiations for acquisition of such property. Such payment, not to exceed fifteen hundred dollars(\$1,500.00) shall be the amount which is necessary to enable such person to lease or rent for a period not to exceed two years or to make the down payment on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such individuals or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.

#### **Sec. 8. Expenses Incidental to Transfer of Property**

(a) In addition to amounts otherwise authorized by this Article, the State Highway Commission is authorized to reimburse the owners of real property acquired for a 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 mortgage entered into in good faith encumbering such real property if such mortgage is on record or has been filed for record as provided by law on the date of approval by the State Highway Commission of the location of such project; and (3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting of title in the State, or the effective date of possession of such real property by the State Highway Department, whichever is earlier.

#### **Sec. 9. Status of Payments**

No payment received under this Act shall be considered as income for 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 to under the State Welfare Act.

#### **Sec. 10. Delegation of Authority to Adopt Rules and Regulations**

The State Highway Commission is authorized to adopt such rules and regulations as it deems necessary and appropriate to carry out the provisions of this Article. The State Highway Commission 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 limited to, provisions relating to:

- (a) Payments authorized by this Article to assure that such payments shall be fair and reasonable and as uniform as possible on those highway projects to which this Act is applicable.
- (b) Prompt payment after a move to displaced persons who make proper application and are entitled to payment, or, in hardship cases, payment in advance.
- (c) Moving expense allowances as provided for in Section 6, subsections (a) and (b) of this Article.
- (d) Standards for decent, safe and sanitary dwellings.
- (e) Eligibility of displaced persons for relocation assistance payments, the procedure for such persons to claim such payments, and the amounts thereof.
- (f) Procedure for an aggrieved displaced person to have his determination of eligibility or amount of payment reviewed by the State Highway Commission or its administrative officers.
- (g) Projects or classes of projects on which payments as herein provided will be made.

**Sec. 11. Eminent Domain**

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 State Highway Commission under the procedure provided for in subsection (f) of Sec. 10 of this Act shall be conclusive and not subject to judicial review.

**Sec. 12. Separability**

If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this Article which can be given effect without such invalid provision or application, and to this end the provisions of this Article shall be severable.

**Sec. 13.** Section 19.2 of Chapter 136 of the General Statutes and all other laws and clauses of laws in conflict with this Act are hereby repealed.

**Sec. 14.** This Act shall become effective January 1, 1970.

In the General Assembly read three times and ratified, this the 9th day of June, 1969.