

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 1107
SENATE BILL 667

AN ACT TO PROVIDE FOR UNIFORM RELOCATION ASSISTANCE AND A UNIFORM
REAL PROPERTY ACQUISITION POLICY FOR STATE AND LOCAL
GOVERNMENT AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 133 of the General Statutes is hereby amended by designating the present chapter beginning with G.S. 133-1 as Article 1 and by adding a new article to be entitled Article 2 beginning with G.S. 133-5 to read as follows:

"§ 133-5. **Short title.** — This Article shall be cited as 'The Uniform Relocation Assistance and Real Property Acquisition Policies Act'.

"§ 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.

"§ 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) 'Displaced person' means any person who, on or after the effective date of this Article, moves from real property or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property for a program or project undertaken by an agency; and solely for the purposes of G.S. 133-8(a) and (b) and G.S. 133-11, as a result of the acquisition of or as a result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such 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 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.

"§ 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 may 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.

(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 or allowance, determined according to a schedule established by the head of the agency, not to exceed three hundred dollars (\$300.00); and a dislocation allowance of two hundred dollars (\$200.00).

(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 (\$2,500) nor more than ten thousand dollars (\$10,000). In the case of a business no payment shall be made under this subsection unless the head of the agency is satisfied that the business (i) cannot be relocated without a substantial loss of its existing patronage, and (ii) is not a part of a commercial enterprise having at least one other establishment not being acquired by the agency 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, or during such other period as the head of such agency 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. To be eligible for the payment authorized by this section, the business or farm operation must make its State income tax returns available, as well as its financial statements and accounting records for confidential use to determine the payment authorized by this section.

"§ 133-9. Replacement housing for homeowners. — (a) In addition to payments otherwise authorized by this Article the agency may make an additional payment not in excess of fifteen

thousand dollars (\$15,000) 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 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 section shall be made in accordance with standards established by the agency making the additional payment.
- (2) The amount, if any, shall be the amount 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 by the agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 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 the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.
- (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 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 from the agency 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.

(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.

"§ 133-10. Replacement housing for tenants and certain others. — In addition to amounts otherwise authorized by this Article, the agency may 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 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 (\$4,000), or
- (2) the amount necessary to enable such person to make a down payment (including incidental expenses described in G.S. 133-9(a)(3), 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 (\$4,000), except that if such amount exceeds two thousand dollars (\$2,000), such person must equally match any such amount in excess of two thousand dollars (\$2,000), in making the down payment.

"§ 133-11. Relocation assistance advisory services. — (a) Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person the agency may provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection (c) of this section. If the relocation officer determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.

(b) All agencies administering programs which may be of assistance to displaced persons covered by this Article shall cooperate to the maximum extent feasible with the agency causing the displacement to assure that such displaced persons receive the maximum assistance available to them.

(c) Each relocation assistance advisory program authorized by subsection (a) of this section 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) 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, as defined by such agency head, 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 the agency head may prescribe by regulation situations when such assurances may be waived;
- (4) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;
- (5) supply information concerning federal and State housing programs, disaster loan programs, and other federal or State programs offering assistance to displaced persons; and
- (6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(d) The agencies shall coordinate relocation activities with project work and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

"§ 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 pre-existing 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.

"§ 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 State Highway Commission 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.

"§ 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. 136-8;
- (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;
- (7) Projects or classes of projects on which payments as herein provided will be made.

"§ 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.

"§ 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.

"§ 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(3) shall be conclusive and not subject to judicial review."

Sec. 2. Article 13 of Chapter 136 of the General Statutes and all other laws and clauses of laws in conflict with this act are repealed effective January 1, 1972. Any rights or liabilities existing under Article 13 or any other laws on January 1, 1972, shall not be affected by the repeal thereof.

Sec. 3. This act shall become effective January 1, 1972.

In the General Assembly read three times and ratified, this the 21st day of July, 1971.