

West Virginia
Department of Transportation
Division of Highways
Right of Way Section

BROCHURE

Relocation Assistance
Moving Costs
Replacement Housing Appeals



B R O C H U R E

FEBRUARY 2025

PERSONAL INFORMATION

The property you occupy is affected by PROJECT NO. _____
and is further identified as PARCEL NO.: _____. Please refer to the project and
parcel numbers when contacting representatives of the West Virginia Department of
Transportation, Division of Highways.

NAME OF OCCUPANT: _____

NAME OF OWNER: _____

NEGOTIATIONS TO ACQUIRE THIS PROPERTY BEGAN ON:

This Brochure describes relocation services and payments available to displaced
persons. Further information may be obtained from:

YOUR RIGHT OF WAY AGENT: _____

or

YOUR RELOCATION AGENT: _____

at

THE RELOCATION FIELD OFFICE: _____ in

_____. Phone: _____

OFFICE HOURS: _____.

F O R W A R D

In 1956, the United States Congress, in its continuing effort to provide for construction of modern highways for our motoring public, established the national interstate system of highways. As a result of the highway program, many of our citizens have relocated and many more must still relocate to new homes and to new business locations.

In 1962, Congress, recognizing the burden placed on those people who have had to move, established a national policy which permitted the state highway departments to offer assistance on a formal basis and to help pay the costs of moving which before were borne solely by the relocatees themselves. In response to this offer, our Legislature established relocation assistance and moving cost reimbursement program to be administrated by the West Virginia Department of Transportation, Division of Highways. Since that time, the Division of Highways has assisted, as well as reimbursed moving costs to, many hundreds of people who have moved to make way for all Federal-aid highways.

In 1968, Congress broadened the benefits of relocation by making it possible for the state highway departments to aid those occupants of residential properties who had to move because of highway construction in finding adequate, decent, safe and sanitary replacement housing. Again, our Legislature enacted legislation making it possible for the West Virginia Department of Highways to pass these additional benefits on to the people of our State who had to move because of Federal-aid highway construction.

On January 2, 1971, Congress passed, and the President signed, the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" which increased the amount of payments and replacement benefits. The West Virginia Legislature has made it possible for the Department of Highways to participate in the full Federal-aid highway program.

The "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" and its amendments establish a uniform policy for the fair and equitable treatment of persons relocated as a result of Federal and Federally assisted programs so that they will not suffer disproportionate injuries as a result of programs designed for the benefit of the general public.

It provides a program of advisory assistance, moving cost payments, and replacement housing payments to every eligible relocatee.

It also assures that there will be available, for each residential relocatee, replacement housing which is decent, safe and sanitary and with the means of his income.

All replacement housing must be fair housing—open to all persons regardless of race, color, religion, sex or national origin and must be offered to every relocatee.

The Department of Transportation, Division of Highways, since 1962, has fully supported the relocation program. Evidence of this support may be found in the fact that recently West Virginia has been a national leader in the number of payments made to relocatees. It is our intention to remain in a position of leadership by offering the best possible assistance and by expeditious handling of the payments due our citizens who move to permit our highway program to continue at its rapid pace.

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RELOCATION ADVISORY ASSISTANCE

IS

AVAILABLE

IF YOU DESIRE ADVISORY ASSISTANCE BECAUSE OF THE
ACQUISITION OF REAL PROPERTY NEEDED FOR A HIGHWAY PROJECT,
CONTACT THE APPROPRIATE DISTRICT RIGHT OF WAY AGENT
LISTED ON THE LAST PAGE OF THIS BROCHURE

WHAT IS ASSISTANCE

The Right of Way Division of the West Virginia Department of Transportation, Division of Highways (hereinafter called "Department"), has the responsibility of acquiring properties; relocating individuals, families, businesses, farm operations, and non-profit organizations; and clearing properties of structures to prepare for the construction of highways. The Relocation Section of the Right of Way Division welcomes the opportunity of offering assistance to those who are to be relocated in finding decent, safe, and sanitary housing into which they may relocate, and to make known to businesses, farm operations, and non-profit organizations replacement sites and facilities that may serve their needs.

PROPERTIES AVAILABLE

Properties for sale and for rent are referred to the relocatees, if requested, as listed by realtors, owners, newspaper advertisements, FHA, VA, trust departments, rental agencies, public housing, builders, developers, and other listing services.

INFORMATION AND LITERATURE

Maps, plans, school and church locations, employment and recreational facilities, utility rates and transportation schedules, pamphlets published to inform those who wish information concerning Small Business Loans, FHA and VA loans, banks and other lending agencies' rates and terms, health and home advice, welfare and other social benefits, and other helpful pamphlet literature are provided.

PAYMENT BENEFITS DISCUSSED

Assistance is offered in processing forms and other documents necessary to receive payments for moving costs, replacement housing benefits, and certain closing costs incurred in purchasing a replacement dwelling, including interest differential payments.

WHO MAKES ASSISTANCE OFFER

When the Right of Way Agent makes the fair market value offer to the owner, he will explain the relocation assistance and services program. Within a reasonable length of time after the initiation of negotiations for a parcel, all tenant-occupants will be personally contacted by relocation personnel to explain the relocation program.

ASSISTANCE PRIOR TO NEGOTIATIONS TO ACQUIRE

Advisory assistance is available prior to the time the owner of the real property is made the offer. Inquiries concerning eligibility for relocation payments prior to actual moving are encouraged. **YOU SHOULD MAKE NO COMMITMENT REGARDING RELOCATION UNTIL YOU HAVE BEEN ADVISED OF ELIGIBILITY REQUIREMENTS OF THE PROGRAM BY A RELOCATION AGENT.** The beginning of negotiations to acquire the real property establishes the eligibility date for relocation payment benefits.

MOVING EXPENSE PAYMENTS
TO
INDIVIDUALS AND FAMILIES

YOU MAY QUALIFY FOR MOVING EXPENSE PAYMENTS
IF IT IS NECESSARY FOR YOU TO MOVE FROM
YOUR DWELLING BECAUSE OF THE ACQUISITION
OF REAL PROPERTY NEEDED FOR A HIGHWAY PROJECT.

MOVING EXPENSE ELIGIBILITY

If it is necessary that you move from a dwelling, you are entitled to receive payment for moving your personal property.

QUALIFICATIONS TO APPLY FOR PAYMENT

You qualify to apply for such payment when:

1. You are in occupancy at the initiation of negotiations to acquire the real property, and
2. You qualify as a "Displaced Person" (see DEFINITIONS).

ELIGIBILITY TO RECEIVE PAYMENT

You are eligible to receive payment when:

1. You move your personal property from the real property.

COMMERCIAL MOVE METHOD

You may choose a commercial mover acceptable to the Department and direct him to move your personal property to a specified location. After the move is completed, you will be reimbursed for the actual reasonable expense of moving your personal property a distance not to exceed 50 miles (80 km), as evidenced by the moving invoice from the commercial mover. Other service expenses, such as reconnecting utility service, may be reimbursed if authorized by the Department and provided the expenses are supported by invoices or receipts from the performer of the services.

SELF MOVE- SCHEDULE METHOD

As an alternative to the commercial move method, you may be reimbursed according to a schedule prepared by the Department, which includes a dislocation allowance (See Page 6).

The moving expense schedule is applicable to individuals and families who occupy furnished or unfurnished dwellings and mobile homes. The number of eligible rooms and square feet areas must be determined, prior to moving, by a representative of the Department.

SELF-MOVE-COMMERCIAL MOVER ESTIMATE

As an alternative to the moving expense schedule method, you may choose to be reimbursed for a self-move based on the lower of two commercial move estimates obtained from qualified and licensed movers. The estimates will be adjusted to deduct the estimated profit and overhead.

CLAIM FILING DATE AND PAYMENT

You must file a written moving expense claim on a form provided by the Department within eighteen (18) months after the following dates:

Tenants – The date you move from the property.

Owners -

1. The date you move from the property; or
2. The date you are paid for the property. In the case of condemnation, this date is the date the court deposit is made.

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS
FIXED MOVING EXPENSE SCHEDULE
August 2021

	# of Rooms	1	2	3	4	5	6	7	8
Houses And Apartments – Occupant Owns Furnishings	Moving Costs And Dislocation Allowance	\$750	\$900	\$1,050	\$1,200	\$1,400	\$1,600	\$1,800	\$2,000

Each Additional Room \$200

	# of Rooms	1	2	3	4	5	6	7	8
Houses, Apartments & Sleeping Rooms – Occupant Does Not Own Furnishings	Moving Costs And Dislocation Allowance	\$400	\$450	\$500	\$550	\$600	\$650	\$700	\$750

Each Additional Room \$100

MOBILE HOMES

Relocatee Owns Mobile Home And Furnishings And All Are Moved Together	Actual Cost Method Only
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	# of Rooms	1	2	3	4	5	6	7	8
Mobile Home Occupant – Owns Furnishings – Not Mobile Home	Moving Costs And Dislocation Allowance	\$750	\$900	\$1,050	\$1,200	\$1,400	\$1,600	\$1,800	\$2,000

Each additional room \$150

Each additional room \$100

	# of Rooms	1	2	3	4	5	6	7	8
Mobile Home Occupant – Does Not Own Mobile Home Or Furnishings – Only Personal Items	Moving Costs And Dislocation Allowance	\$400	\$450	\$500	\$550	\$550	\$650	\$700	\$750

DORMITORY STYLE ROOM

The moving expense and dislocation allowance to a person with minimal personal possessions who is in occupancy of a dormitory-style room shared by two or more other unrelated persons is limited to \$100.00.

MOVING EXPENSE PAYMENTS
TO
NON-PROFIT ORGANIZATIONS, BUSINESSES, FARM OPERATIONS

YOU MAY QUALIFY FOR MOVING EXPENSE PAYMENTS
IF IT IS NECESSARY FOR YOU TO MOVE FROM
YOUR DWELLING BECAUSE OF THE ACQUISITION
OF REAL PROPERTY NEEDED FOR A HIGHWAY PROJECT.

MOVING EXPENSE ELIGIBILITY

You are entitled to receive payment for moving expenses if it is necessary that you move personal property from a non-profit organization, business, or farm operation.

QUALIFICATIONS TO APPLY FOR PAYMENT

You qualify to apply for such payment when:

1. You are in occupancy at the initiation of negotiations to acquire the real property, and
2. You qualify as a "Displaced Person" (See DEFINITIONS).

ELIGIBILITY TO RECEIVE PAYMENT

You are eligible to receive payment when:

1. You move your personal property from the real property.

INVENTORY

Prior to but near the time of the actual move, you must prepare an inventory of the items of personal property to be moved. The inventory should include such services as disassembling or disconnecting and reassembling or reconnecting of machinery, equipment, appliances, and other items classified as personal property, including reconnection of utilities to such items which do not constitute an improvement to the replacement realty.

INSPECTIONS

You must permit an agent from the Department to inspect both the old and new properties and verify the inventory.

NOTICE OF MOVE

You must provide the Department with advanced notice of the date on which you plan to move your personal property to enable the Department to monitor the move.

COMMERCIAL MOVE METHOD

You may choose a commercial mover, acceptable to the Department, and direct him to move your personal property to a specified location. After the move is completed, you will be reimbursed for the actual reasonable expense of

moving your personal property a distance not to exceed 50 miles (80 km) as evidenced by the moving invoice from the commercial mover. Other expenses, such as packing, crating, unpacking, disconnecting, dismantling, removal, reassembling, reinstalling, storage (not to exceed 12 months), re-lettering signs, replacing obsolete stationery, insurance, licenses, actual direct loss of tangible personal property and reconnecting utility services, may be reimbursed if authorized by the Department provided the expenses are supported by invoices or receipts from the performer of the services.

SMALL BUSINESS REESTABLISHMENT EXPENSES

In addition, a “Small Business”, farm or non-profit organization may be eligible for up to \$33,200 reimbursement for certain actual reasonable expenses incurred in reestablishing. These expenses may include: repairs or improvements required by law, certain modifications to the replacement property, certain exterior signing, and provisions for utilities from right of way to improvements, redecorating, feasibility studies, advertising, extra costs of operation, and other costs in conjunction with the re-establishment of the business, farm or non-profit organization.

MOVING EXPENSE FINDING METHOD

In business cases where the move is not complicated or the other moving methods are inappropriate, a qualified Department employee may make a moving cost finding (estimate) as the basis for payment.

SELF-MOVE METHOD “BIDS”

As an alternative, you may be reimbursed an amount equal to the lower of two (2) bids or estimates provided the Department obtains the bids or estimates and authorizes you to proceed with the move.

SEARCHING FOR A REPLACEMENT SITE

In addition, you may be paid for the actual reasonable expense, not to exceed \$5,000.00, in searching for a replacement business site. Such expenses may include transportation expenses, meals, lodging away from home, and the reasonable value of time actually spent in searching. All expenses claimed, except the value of time actually spent in searching, must be supported by invoices, receipted bills or other evidence of expenses incurred.

IN LIEU OF MOVING EXPENSES

As an alternative, a non-profit organization or owner of a business or farm operation may receive a payment equal to his "average annual net earnings" instead of being reimbursed for his actual moving expenses. The payment shall not be less than \$1,000.00 nor more than \$53,200.00.

ELIGIBILITY

To be eligible, the following requirements must be met:

Business:

The Department must determine:

1. That the business cannot be relocated without a substantial loss of existing patronage;
2. That the business is not part of a commercial enterprise having at least three other locations not being acquired, engaged in a like or similar operation;
3. That the business "contributed materially" to the income of the displaced person.

NOTE: A person whose sole business is the rental of property to others shall not qualify for this type of payment. (Landlords)

Farm:

The Department must determine:

1. That the farm operation was discontinued or relocated in its entirety, or
2. In the case of partial acquisition:
 - a) The taking caused the operation to be displaced from the farm operation on the remaining land, or
 - b) The taking caused such a substantial change in the principal operation or the nature of the existing farm operation as to constitute a displacement.

Non-Profit Organization

The Department must determine:

1. That the non-profit organization cannot be relocated without a substantial loss of existing patronage (membership or clientele).

CLAIM FILING DATE AND PAYMENT

You must file a written moving expense claim on a form provided by the Department within eighteen (18) months after the following dates:

Tenants - The date you move from the property

Owners -

1. The date you move from the property; or
2. The date you are paid for the property. In the case of condemnation, this date is the date the court deposit is made.

REPLACEMENT HOUSING PAYMENTS
FOR
OWNER-OCCUPANTS IN OCCUPANCY 90 DAYS OR MORE

YOU MAY QUALIFY FOR A REPLACEMENT HOUSING PAYMENT,
MORTGAGE INTEREST DIFFERENTIAL PAYMENT AND A PAYMENT
FOR EXPENSES INCIDENT TO THE PURCHASE OF REPLACEMENT
HOUSING IF IT IS NECESSARY FOR YOU TO MOVE FROM YOUR
DWELLING BECAUSE OF THE ACQUISITION OF REAL PROPERTY
NEEDED FOR A HIGHWAY PROJECT.

REPLACEMENT HOUSING PAYMENT TO PURCHASE AND OCCUPY

If you are the owner-occupant of your dwelling, you may receive payments, the combined total of which may not exceed \$41,200.00, for the cost necessary:

1. To purchase replacement housing;
2. To compensate you for the loss of favorable financing of replacement housing;
3. To reimburse you for expenses incident to the purchase of replacement housing.

QUALIFICATIONS TO APPLY FOR PAYMENT

You qualify to apply for such payment when you are in occupancy and have been in occupancy for at least 90 consecutive days immediately prior to the date of the initiation of negotiations to acquire the real property.

ELIGIBILITY TO RECEIVE PAYMENT

You are eligible to receive payment when:

1. You purchase and occupy a decent, safe, and sanitary dwelling within a period of one (1) year from the latest of the following dates:
 - a) The date on which the owner received from the Department final payment for all costs of the acquired dwelling in negotiated settlements; or, in the case of condemnation, the date on which the required payment is deposited with the court for the benefit of the owner; or
 - b) The date on which he was offered decent, safe, and sanitary replacement housing. (The date on Form RW 12.13.)
2. The Department inspects the replacement dwelling and determines that it meets decent, safe, and sanitary standards.
3. You indicate, to the best of your knowledge and belief, that the replacement dwelling meets decent, safe, and sanitary standards.
4. You file your claim for payment, on a form provided by the Department, within six (6) months after the expiration of the one (1)

year period specified in Paragraph 1 above, except that in condemnation cases the period shall be extended to six (6) months after final adjudication.

COMPUTATION

The replacement housing payment is the difference between the acquisition amount paid to you by the Department for your dwelling and the lessor of:

1. What you actually paid for your decent, safe, and sanitary replacement dwelling, or
2. The amount determined by the Department as necessary to purchase a comparable decent, safe, and sanitary dwelling.

CONDEMNATION PROCEEDINGS

If the acquisition price is delayed pending the outcome of the condemnation proceedings, an advance replacement housing payment may, in certain cases, be computed and paid to you.

The computed replacement housing payment is the amount determined by the Department as necessary to acquire a comparable decent, safe, and sanitary dwelling, less the Department's maximum offer to purchase.

If, in condemnation proceedings, you are awarded an acquisition price greater than the Department's maximum offer to purchase, the replacement housing payment is recomputed. The recomputed replacement housing payment is the amount determined by the Department as necessary to acquire a comparable decent, safe, and sanitary dwelling less the amount awarded in the condemnation proceedings.

If you wish to be paid the advance replacement housing payment, and meet all Replacement Housing Payment requirements, you must agree in writing to refund to the Department from your judgment, as determined in the condemnation proceedings, the recomputed excess amount created by the condemnation proceedings. In no event are you required to refund more than the advance replacement housing payment.

INCREASED INTEREST PAYMENT

You may receive payments for increased mortgage interest costs when:

1. The dwelling acquired by the Department was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the date of initiation of negotiations, and
2. The mortgage on the replacement dwelling bears a higher rate of interest than the mortgage interest rate on the acquired dwelling and does not exceed the prevailing fixed interest rate for conventional mortgages in the project area.

INTEREST PAYMENT COMPUTATIONS

The computations to determine amounts of interest differentials are made by experienced Department personnel according to established formulas and include certain origination and assumption fees and purchaser's points.

EXPENSES INCIDENT TO PURCHASE OF REPLACEMENT HOUSING

You may be reimbursed for actual reasonable costs incurred by you that are incident to the purchase of a replacement dwelling. Such costs may include the following, if necessary and reasonable:

1. Legal, closing, and related costs, including those for title search and insurance, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees;
2. Lender, FHA, or VA application fees that do not represent prepaid interest. Appraisal fees when required by lending institutions.
3. FHA or VA application fee;
4. Certification of structural soundness and termite inspection when required;
5. Credit report;
6. Owner's and mortgagee's evidence or assurance of title. (Not to exceed costs for a comparable replacement dwelling.)
7. Escrow agent's fee;
8. Such other costs as the Department determines to be incidental to the purchase.

Normally the charges for abstract and/or survey must occur no later than at the time of the closing on the replacement property.

REPLACEMENT HOUSING PAYMENT TO RENT AND OCCUPY

If you elect to rent and occupy, instead of purchase and occupy, a decent, safe, and sanitary dwelling – your payment may not exceed \$9,570.00 and will be calculated as a 90-day occupant.

If you have received a rental payment and within one (1) year after relocation elect to purchase a decent, safe, and sanitary dwelling, you may receive an additional replacement housing payment, less the rental payment previously received; however, the combined total may not exceed the original determination.

REPLACEMENT HOUSING PAYMENTS
FOR
90-DAY OCCUPANTS TENANTS
IN OCCUPANCY 90 DAYS OR MORE

YOU MAY QUALIFY FOR A REPLACEMENT HOUSING PAYMENT
IF IT IS NECESSARY FOR YOU TO MOVE FROM A
DWELLING BECAUSE OF THE ACQUISITION OF REAL PROPERTY
NEEDED FOR A HIGHWAY PROJECT.

REPLACEMENT HOUSING PAYMENT TO RENT AND OCCUPY

If you elect to rent and occupy, instead of purchase and occupy, a decent, safe and sanitary dwelling – your payment may not exceed \$9,570.00 and will be calculated as a 90-day occupant.

QUALIFICATIONS TO APPLY FOR PAYMENT

You qualify to apply for such payment when you are in occupancy and have been in occupancy for at least 90 consecutive days immediately prior to the date:

1. Of initiation of negotiations to acquire the real property, and
2. You qualify as a “Displaced Person” (See DEFINITIONS).

ELIGIBILITY TO RECEIVE PAYMENT

You are eligible to receive payment when:

1. You rent and/or purchase and occupy a decent, safe, and sanitary dwelling within a one (1) year period beginning on the later of:
 - a) The date you move; or
 - b) The date on which the owner receives from the Department final payment for all costs of the acquired dwelling in negotiated settlement; or
 - c) In the case of condemnation, the date on which the Department deposits the required amount in court for the benefit of the owner.
2. The Department inspects the replacement dwelling and determines that it meets decent, safe and sanitary standards;
3. You indicate, to the best of your knowledge and belief, the replacement dwelling meets decent, safe, and sanitary standards;
4. You file your claim for payment, on a form provided by the Department, within six (6) months after the expiration of the one (1) year period specified in Paragraph 1 above.
5. You submit to the Department either a rent receipt for at least the first month’s rent or a copy of a lease agreement that verifies actual rent being paid for the replacement unit.

COMPUTATION

The amount of the payment is the difference between:

1. The estimated monthly market rent and utilities for your dwelling unit for 42 months; and
2. The lesser of either the estimated comparable replacement rent and utilities or what you actually pay for rent for your replacement unit for 42 months.

PAYMENT DISBURSEMENT

Rent supplements will be made in one (1) payment. Exceptions are when Replacement Housing of Last Resort is necessary and the payment will be made in equal installments. The Department will determine the payment schedule on a case-by-case basis.

REPLACEMENT HOUSING PAYMENT TO PURCHASE AND OCCUPY

If you choose to purchase and occupy a decent, safe, and sanitary dwelling, you may elect to apply your \$9,570.00 payment to a down payment and incidental closing costs on a decent, safe, and sanitary replacement home of your choice. You must provide documentation that the entire payment was used for the replacement property.

If you have received a rental payment and within one (1) year after relocation elect to purchase a decent, safe, and sanitary dwelling, you may receive an additional replacement housing payment, less the rental payment previously received; however, the combined total may not exceed \$9,570.00.

MOBILE HOMES

ASSISTANCE, MOVING AND REPLACEMENT HOUSING PAYMENTS

YOU MAY QUALIFY FOR RELOCATION ASSISTANCE, MOVING EXPENSE PAYMENTS AND REPLACEMENT HOUSING PAYMENTS IF IT IS NECESSARY FOR YOU TO MOVE FROM YOUR MOBILE HOME BECAUSE OF THE ACQUISITION OF REAL PROPERTY NEEDED FOR A HIGHWAY PROJECT.

MOBILE HOMES

ASSISTANCE OFFERED

Assistance in finding decent, safe, and sanitary replacement housing and other assistance, as described under the general heading of Relocation Assistance.

MOVING EXPENSE

Moving and related expense payments are available when applicable, as described under the general heading of Moving and Related Expense Payments, Individuals, Families, Businesses, and Farms.

REPLACEMENT HOUSING

Replacement Housing payments are available, when applicable, as described under the heading Replacement Housing Payments (owner and tenant, Green and Blue Sections). The Relocation Agent will advise you of benefits, when applicable.

APPEALS

IF DISSATISFIED

In the event you are dissatisfied with either the determination concerning eligibility for payment or the amount of the payment offered, you may file an appeal.

OPPORTUNITY TO BE HEARD

If you make an appeal, you will be given full opportunity to be heard.

HEARING AT DISTRICT LEVEL

A preliminary hearing will be held at the District level by prearrangement between you and the District Right of Way Agent.

FORMAL HEARING

If you are dissatisfied with the results of the preliminary hearing, the District Right of Way Agent will arrange for a more formal hearing with the Director of the Right of Way Division.

NOTIFICATION OF DECISION

A prompt decision will be reached on the basis of evidence submitted and you will be notified of such decision.

LIMITATIONS

All appeals must be filed promptly within a reasonable time period. The right to appeal is terminated when a displacee files a written claim for payment. Should no written claim be submitted to the Department, the right to appeal is limited to no later than sixty (60) days after you have been advised of your relocation eligibility.

LAST RESORT HOUSING PROGRAM

Whenever a project cannot proceed on a timely basis because comparable replacement dwellings are not available, the Department will initiate a "Last Resort Housing" project.

DEFINITIONS

ACQUIRED

The time at which the Department obtains legal possession of the real property.

ACQUISITION COST

Price paid the owner for property rights acquired.

APPEAL

Any party aggrieved by the eligibility determination made by the Department concerning their replacement housing offer, moving costs, incidental costs, or mortgage interest differential payment may appeal.

BREAKOUT

The Fair Market Value of the dwelling and its site, exclusive of any excess land or other improvements.

BUSINESS

The term “business” means any lawful activity, except a farm operation, conducted primarily:

1. For the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacturing, processing, and/or marketing of products, commodities, and/or any other personal property; or
2. For the sale of services to the public; or
3. By a non-profit organization that has established its non-profit status under applicable Federal and State laws; or
4. Outdoor advertising.

COMPARABLE REPLACEMENT DWELLING

A comparable replacement dwelling is one which is:

1. Decent, safe, and sanitary as defined under “STANDARDS FOR DECENT, SAFE, AND SANITARY HOUSING”.
2. Functionally equivalent to the displacement dwelling. The term “functionally equivalent” means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Department may consider reasonable trade-offs for specific features when the replacement unit is “equal to or better than” the displacement dwelling.
3. Adequate in size to accommodate the occupants;
4. In an area not subject to unreasonable adverse environmental conditions;
5. In a location generally not less desirable than the location of the displaced person’s dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person’s place of employment;
6. On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses.
7. Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance.
8. Within the financial means of the displaced person.
 - i. A replacement dwelling purchased by a homeowner in occupancy for at least 90 days prior to initiation of negotiations (90-day homeowner) is considered to be within the homeowner’s financial means if the homeowner is paid the full price differential as described at paragraph 12.14.3, all increased mortgage interest

cost as described at paragraph 12.15, and all incidental expenses as described at paragraph 12.16, plus any additional amount required as “Last Resort Housing”, paragraph 12.28.

- ii. A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person’s monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person’s base monthly rental for the subject dwelling.
- iii. For a displaced person who is not eligible to receive a replacement housing payment because of the person’s failure to meet length-of-occupancy requirements comparable replacement rental housing is considered to be within the person’s financial means if the Department pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30 percent of such person’s gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities. Such rental assistance must be paid under replacement housing of last resort.

CONTRIBUTES MATERIALLY

The term “contributes materially” means that during the two (2) taxable years prior to the taxable year in which displacement occurs, or during such other period as the Department determines to be more equitable, a business or farm operation:

- 1. Had average annual gross receipts of at least \$5,000; or
- 2. Had average annual net earnings of at least \$1,000; or
- 3. Contributed at least 33 1/3 percent of the owner’s or operator’s average annual gross income from all sources.
- 4. If the application of the above criteria creates an inequity or hardship in any given case, the Department may approve the use of other criteria as determined appropriate.

DECENT, SAFE, AND SANITARY DWELLING

PLEASE UNDERSTAND THAT THE REPLACEMENT DWELLING DECENT, SAFE, AND SANITARY INSPECTION THAT WILL BE CONDUCTED BY AGENCY PERSONNEL IS FOR THE SOLE PURPOSE OF DETERMINING YOUR ELIGIBILITY FOR A RELOCATION PAYMENT. YOU, THEREFORE, MUST NOT INTERPRET THE AGENCY'S APPROVAL OF A DWELLING TO PROVIDE ANY ASSURANCE OR GUARANTEE THAT THERE ARE NOT DEFICIENCIES IN THE DWELLING OR IN ITS FIXTURES AND EQUIPMENT. IT IS THEREFORE YOUR RESPONSIBILITY TO PROTECT YOUR BEST INTEREST AND INVESTMENT IN THE PURCHASE OR RENTAL OF YOUR REPLACEMENT PROPERTY AND YOU MUST CLEARLY UNDERSTAND THAT THE AGENCY WILL ASSUME NO RESPONSIBILITY OF BLAME IF STRUCTURAL, MECHANICAL, LEGAL, OR OTHER PROBLEMS ARE DISCOVERED.

A dwelling which meets applicable housing and occupancy codes. However, any of the following standards which are not met by an applicable code shall apply, unless waived for good cause by the Federal agency funding the project. The dwelling shall:

1. Be structurally sound; weathertight, and in good repair.
2. Contain a safe electrical wiring system adequate for lighting and other electrical devices.
3. Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system.
4. Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. There shall be a separate, well-lighted, and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.
5. Contain unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.

6. For a handicapped displacee, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by a displaced person who is handicapped.

DISPLACED PERSON (RELOCATEE, DISPLACEE)

Any person who moves from the real property or moves his or her personal property from the real property:

1. As a direct result of the Department's acquisition of such real property in whole or in part for a project. This includes any person who moved from the real property as a result of the initiation of negotiations. In the case of a partial acquisition, the Department shall determine whether the person is displaced as a direct result of the partial acquisition; or
2. As a result of a written order from the Department to vacate such real property for the project; or
3. As a result of the Department's acquisition of, or written order to vacate, other real property for a project on which the person conducts a business, farm operation, or is a non-profit organization. Eligibility as a displaced person under this subparagraph applies only for purposes of obtaining relocation assistance advisory services and moving expenses.

Persons not displaced. The following is a nonexclusive listing of persons who do not qualify as a displaced person under these regulations.

1. A person who moves before the initiation of negotiations; or
2. A person who initially enters into occupancy of the property after the date of its acquisition for the project; or
3. A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Department in accordance with any guidelines established by the Federal agency funding the project; or
4. A person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the Department agrees to reimburse the person for any expenses incurred to satisfy any obligations entered into after the effective date of the notice of relocation eligibility; or
5. An owner-occupant who voluntarily sells his or her property after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the Department will not acquire the property. In such cases,

however, any resulting displacement of a tenant is subject to these regulations; or

6. A person who retains the right of use and occupancy of the real property for life following its acquisition by the Department.

DWELLING

The place of permanent or customary and usual residence of a person, according to local custom or law, including a single-family house; a single-family unit in a two-family house; a single-family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

EXISTING PATRONAGE

The term “existing patronage”, except in the case of a non-profit organization, means the average annual net dollar volume of business transacted during the two taxable years immediately preceding the taxable year in which the business is relocated. With regard to a non-profit organization, it means membership or clientele.

FAMILY

Two or more individuals living together in a single-family dwelling unit who:

1. Are related by blood, adoption, marriage, or legal guardianship who live together as a family unit, plus all other individuals regardless of blood or legal ties who live with and are considered a part of the family unit; or
2. Are not related by blood or legal ties but live together by mutual consent. (See definition of “HOUSEHOLD”.)

FARM OPERATION

The term “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.

FUNCTIONALLY SIMILAR

This term is used as one part of the definition of “Comparable Replacement Dwelling” and means that the comparable must perform the same function, provide the same utility, and be capable of contributing the same lifestyle as the subject. While it need not possess every feature of the subject, the principle features must be present.

HOUSEHOLD

Those who dwell under the same roof and compose a family. Also, a social unit comprised of those living together in the same dwelling. (See definition of “FAMILY”.)

ILLEGAL ALIEN

Person not lawfully present in the United States.

INITIATION OF NEGOTIATIONS

The term “initiation of negotiations” means the date on which the owner of the property or his designated representative is given a written offer by the Department’s representative for the property to be acquired.

MORTGAGE

The term “mortgage” means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the law of the State of West Virginia, provided the real property is located in the State, together with the credit instruments, if any, secured thereby.

NON-PROFIT ORGANIZATION

The term “non-profit organization” means a corporation, partnership, individual, or other public or private entity that has established its non-profit status under applicable Federal or State law.

OWNER OF SUBJECT DWELLING

A displaced person is considered to have met the requirements to own a displacement dwelling if the person holds any of the following interests in real property acquired for a project:

1. Fee title, a life estate, a 99-year lease, or a lease, including any options for extension, with at least 50 years to run from the date of acquisition; or
2. An interest in a cooperative housing project which includes the right to occupy a dwelling; or
3. A contract to purchase any of the interests or estates described in subparagraphs (1) or (2) of this paragraph; or
4. Any other interest, including a partial interest, which in the judgment of the Department warrants consideration as ownership.

90-DAY TENANT OR OWNER

A tenant or owner who has actually and lawfully occupied the subject dwelling for at least 90 days immediately prior to the initiation of negotiations.

PERSON

The term “person” means any individual, family, partnership, company, corporation, or association.

RELOCATEE (DISPLACEE)

Any person who meets the definition of a displaced person.

SMALL BUSINESS

A business having at least one, but not more than 500 employees working at the site being acquired.

TENANT

A family or individual having temporary possession and lawful occupancy of the property belonging to another with his consent.

UTILITY COST

Expenses for heat, lights, water, and sewer.

WV Department of Transportation
Division of Highways
District One
1334 Smith Street
Charleston, WV 25301
Telephone: 304-558-3021
Boone, Clay, Kanawha,
Mason, Putnam

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Division of Highways
District Two
P.O. Box 880
Huntington, WV 25712
Telephone: 304-528-5635
Cabell, Lincoln, Logan, Mingo,
Wayne

WV Department of Transportation
Division of Highways
District Three
P.O. Box 308
Parkersburg, WV 26101
Telephone: 304-865-0091
Calhoun, Jackson, Pleasants,
Ritchie, Roane Wirt, Wood

WV Department of Transportation
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P.O. Box 4220
Clarksburg, WV 26302
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Monongalia, Preston, Taylor

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Mineral

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1 DOT Drive
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Tyler, Wetzel

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Upshur, Webster

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Nicholas, Summers

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Division of Highways
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270 Hardwood Lane
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Telephone: 304-716-3296
McDowell, Mercer, Raleigh,
Wyoming