

5:11-3.8 Payments to businesses

(a) An eligible business that is displaced from its place of operation and moves its personal property therefrom shall be entitled to receive payment for:

1. Actual reasonable moving expenses, as set forth in N.J.A.C. 5:11-3.9; actual reasonable direct loss of tangible personal property, as set forth in N.J.A.C. 5:11-3.10; actual reasonable expenses incurred in searching for a replacement business, as set forth in N.J.A.C. 5:11-3.11; and actual reasonable expenses for professional fees incurred in the renovation and lease, use or acquisition of the replacement site, as set forth in N.J.A.C. 5:11-3.13; or
2. Payment in lieu of moving and related expenses (paragraph 1 of this subsection) as set forth in N.J.A.C. 5:11-3.12.

As amended, R.1984 d.127, eff. April 16, 1984.

See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

Recodified from N.J.A.C. 5:11-3.6.

(a)1: "and actual . . . in N.J.A.C. 5:11-3.13;" added.

Amended by R.2004 d.222, effective June 21, 2004.

See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

Amended N.J.A.C. references throughout.

5:11-3.9 Moving expenses; business

(a) A relocation payment for moving expenses of a business shall be limited to the following items, as applicable:

1. The actual reasonable and necessary cost of moving the tangible personal property for a maximum distance of 50 miles, unless the distance is enlarged by the displacing agency, for cause.
2. The actual reasonable and necessary cost incurred for inspection and license fees required by statute or local ordinance to permit the operation of the business at the new location.
3. The actual reasonable and necessary cost of reconnecting utility service to machinery and equipment, including, without limitation, the cost incurred in adapting or converting relocated machinery or equipment to use a different type of power supply, to the extent that these services were required in the former location. Expenses incurred in providing utility service from the right-of-way to the building or improvements are excluded.
4. The actual reasonable and necessary cost incurred for any physical changes in or to an existing building to which a building relocates in order to accommodate the machinery and equipment relocated. Physical changes beyond those necessary to accommodate the machinery and equipment and which enhance the property's value are excluded, as are changes necessary to meet code requirements except when necessary to install specific equipment moved from the former location. The amount incurred shall not exceed the fair market value of the machinery and equipment requiring the physical change. In the event the cost does exceed the fair market value of

the machinery and equipment, the displacing agency shall then be responsible to pay only the fair market value.

5. The owner of a displaced business may elect to replace with a comparable item any item of personal property, including, without limitation, outdoor advertising displays or signs, utilized in its operation which is not to be moved. In such a case, the amount of the moving expense payment shall be the lesser of:

- i. The actual cost of the substitute equipment delivered and installed at the new location less any proceeds from the disposition of the old equipment or, if a bona fide sale cannot be made, less the market value of the old equipment as determined by an independent appraisal; and
- ii. The estimated cost of relocating the old equipment, as determined by the displacing agency.

(b) The business move may be accomplished by either of two methods, as described in this subsection:

1. The displaced business may use licensed moving companies or contractors as required and, if it does provide the displacing agency with moving cost estimates from three licensed moving companies or contractors. The displacing agency shall choose one of the three estimates and authorize payment up to that amount. In the event the displacing agency does not accept any of the three estimates provided, it may obtain one estimate and choose one of the four estimates and authorize payment up to that amount. The business may then use any mover it so chooses and be responsible for any additional cost.
2. The displaced business may choose to move itself upon prior notice to the displacing agency and shall submit the three moving estimates as in (b)1 above. The amount of the moving cost payment shall be the lesser of the bid chosen or the estimate obtained by the displacing agency.

As amended, R.1984 d.127, eff. April 16, 1984.

See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

Recodified from N.J.A.C. 5:11-3.7.

Section substantially amended.

Amended by R.1989 d.188, effective April 3, 1989.

See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).

In (a)3 exclusions added re: utility service and improvements.

In (a)4 exclusions added re: those changes beyond what is necessary to accommodate equipment.

Cross References

Payments to businesses, see N.J.A.C. 5:40-3.8.

Case Notes

Relocation expense award modified; no award for improvements to property not needed to accommodate relocated machinery and equipment. *Foreign Auto Preparation Service v. New Jersey Economic Development Authority*, 201 N.J.Super. 428, 493 A.2d 550 (App.Div. 1985).

5:11-3.10 Loss of tangible personal property

(a) A displaced business that is eligible for moving expenses and elects not to move all or a part of the personal property may receive a payment for actual direct loss of the personal property not moved. This payment may be made only upon prior approval of the displacing agency and after a good faith effort has been made by the displacee to sell the personal property involved.

(b) The payment for loss of tangible personal property shall be calculated as follows:

1. In the event the item is sold the payment shall be the fair market value less the net sales amount (sales price less cost of sale);

2. In the event the item is not sold the payment shall be the fair market value. The item shall then be the property of the displacing agency.

3. In no event shall the payment exceed the estimated moving cost as determined by the displacing agency.

R.1984 d.127, eff. April 16, 1984.
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).
Recodified from N.J.A.C. 5:11-3.8.

Cross References

Payments to businesses, see N.J.A.C. 5:40-3.8.

5:11-3.11 Expenses for searching for a replacement location

(a) In addition to moving expenses and loss of personal property payments, a displaced business shall be reimbursed for the actual and reasonable expenses incurred in searching for a replacement location, not to exceed \$1,000.00.

(b) These expenses may include transportation costs within 50 miles, time spent in searching, not exceeding \$15.00 per hour, and fees paid to a real estate agent for locating a site.

As amended, R.1984 d.127, eff. April 16, 1984.
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).
Recodified from N.J.A.C. 5:11-3.9.
(a): \$100.00 added; \$500.00 deleted.
(b): \$15.00 added; \$10.00 deleted.

Cross References

Payments to businesses, see N.J.A.C. 5:40-3.8.

5:11-3.12 Payment in lieu of moving and related expenses

(a) The owner of a displaced business may receive an in lieu of moving and related expenses payment equal to the average net income for the last two years, but not less than \$2,500 nor more than \$10,000.

1. A person whose sole business at the displacement location is the rental of the property to others, or the owner of an outdoor advertising display at the displacement location, shall not qualify for a payment under this section.

(b) In order for an applicant to be eligible for an in lieu payment, the displacing agency shall determine that:

1. The business cannot be relocated without a substantial loss of its existing patronage; and

2. The business is not a part of a commercial enterprise having another business of the same or similar nature that is not being acquired; and

3. The business contributes materially to the income of the owner.

(c) The owner of a farm operation may receive payment in lieu of moving expenses calculated on the same basis as for a business, provided the displacing agency determines that:

1. The farm operation contributes materially to the operator's income; and

2. The displacement renders the farm operation an uneconomic unit.

R.1984 d.127, eff. April 16, 1984.
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).
Recodified from N.J.A.C. 5:11-3.10.
Amended by R.1989 d.188, effective April 3, 1989.
See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).

Added (a)1., regarding sole business in rental of property or outdoor advertising display.

Case Notes

Net income line from federal income tax return was not appropriate figure upon which to base calculation of average net income for purposes of "in lieu of" relocation benefits payable to owner of displaced business. 60 West Jersey Corp. v. City of Elizabeth, 96 N.J.A.R.2d (CAF) 92.

5:11-3.13 Payment for professional fees

(a) The owner of a displaced business may receive a payment for professional fees for, without limitation, the following services:

1. Architect's plans for the new site, as required by local ordinance, showing modifications needed to make physical changes to an existing building; and

2. Legal services, including, without limitation, the researching of local ordinances and preparing of documents for submission to local construction officials, planning boards and boards of adjustment.

Adopted as R.1984 d.127, eff. April 16, 1984.
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).
New Rule.