

CHAPTER 6

RELOCATION ASSISTANCE

Authority

N.J.S.A. 27:1A-5, 27:1A-6, 27:7-27, 27:7-72 through 27:7-88; the Uniform Transportation Replacement Housing and Relocation Act (P.L. 1972, c. 47, as amended by P.L. 1989, c. 50); 23 U.S.C. §§101 et seq.; and 49 CFR Part 24.

Source and Effective Date

R.2010 d.034, effective January 7, 2010.
See: 41 N.J.R. 3787(a), 42 N.J.R. 593(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 6, Relocation Assistance, expires on January 7, 2017. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 6, Relocation Assistance, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 6 expired on June 6, 1984.

Chapter 6, Relocation Assistance, was adopted as new rules by R.1985 d.435, effective September 3, 1985. See: 17 N.J.R. 565(a), 17 N.J.R. 243(a).

Chapter 6, Relocation Assistance was repealed and adopted as new rules by R.1989 d.421, effective August 7, 1989. See: 21 N.J.R. 1273(a), 21 N.J.R. 2290(b).

Pursuant to Executive Order No. 66(1978), Chapter 6, Relocation Assistance, was readopted as R.1994 d.400, effective July 8, 1994. See: 26 N.J.R. 1958(a), 26 N.J.R. 3183(b).

Pursuant to Executive Order No. 66(1978), Chapter 6, Relocation Assistance, was readopted as R.1999 d.220, effective June 24, 1999. See: 31 N.J.R. 1180(a), 31 N.J.R. 1952(a).

Chapter 6, Relocation Assistance, was readopted as R.2004 d.386, effective September 13, 2004. See: 36 N.J.R. 3235(a), 36 N.J.R. 4834(a).

Chapter 6, Relocation Assistance, was readopted as R.2010 d.034, effective January 7, 2010. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

16:6-1.1 Purpose

The purpose of this chapter is to provide a uniform program of relocation payments and assistance to displaced persons, in compliance with the provisions of the Uniform Transportation Replacement Housing and Relocation Act, N.J.S.A. 27:7-72 et seq., as amended, including P.L. 1989, c.50.

Amended by R.2004 d.386, effective October 18, 2004.
See: 36 N.J.R. 3235(a), 36 N.J.R. 4834(a).
Rewrote the section.

Case Notes

Initial Decision (2009 N.J. AGEN LEXIS 184) adopted, which denied a company's claim for relocation assistance because the company was not a "displaced person" under the Uniform Transportation Replacement Housing and Relocation Act where it failed to show that the NJ Transit's bridge project resulted in the elimination of reasonable access to its property; the evidence demonstrated that other contributing factors were involved in the company's decision to relocate and NJ Transit did not "directly" cause the company to relocate. *Veeco Services, Inc. v. N.J. Transit Corp.*, OAL Dkt. No. TRP 07204-07, 2009 N.J. AGEN LEXIS 856, Final Decision (August 3, 2009).

16:6-1.2 Relocation notices

(a) As soon as is practicable, a person scheduled to be displaced shall be furnished with a general written description of the displacing agency's relocation program. The term "agency" means the entity, public or private, including the State of New Jersey, Department of Transportation, counties, municipalities, and other public entities, utilizing State or Federal funds under an aid program administered by the State of New Jersey, Department of Transportation. The written description shall accomplish at least the following:

1. Inform the person that he or she may be displaced for the project and generally describe the relocation pay-

ment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);

2. Inform the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims and other necessary assistance to help the person successfully relocate;

3. Inform the person that he or she will not be required to move without at least 90 days advance written notice, and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available to them; and

4. Describe the person's right to appeal the agency's determination as to a person's application for assistance for which a person may be eligible.

(b) Eligibility for relocation assistance shall begin on the date of initiation of negotiations for the occupied property. Initiation of negotiations means the delivery of the initial written offer of just compensation by the agency to the owner or the owner's representative, to purchase the real property. When this occurs, all occupants shall promptly be notified, in writing, of their eligibility for applicable relocation assistance.

(c) Ninety-day notice requirements are as follows:

1. No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

2. The agency shall issue the notice 90 days before it expects the person to be displaced or earlier.

3. The 90 day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating at least 30 days in advance, the specific date by which he or she must move. If the 90 day notice is issued before a comparable replacement dwelling is made available, the notice shall state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available per these regulations.

4. In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the agency determines that a 90 day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety.

16:6-1.3 Availability of comparable replacement dwelling before displacement

(a) No person to be displaced shall be required to move from his or her dwelling unless at least one comparable

replacement dwelling (described in (b) below) has been made available to the person pursuant to this chapter. Where possible, three or more comparable replacement dwellings shall be made available. Only in those situations when the local housing market does not contain three comparable dwellings, may the agency make fewer than three referrals.

(b) The term "comparable replacement dwelling" means a dwelling which the Agency determines to be:

1. Decent, safe and sanitary;

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;

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; and

8. Within the financial means of the displaced person.

i. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180 day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential, all increased mortgage interest costs, and all incidental expenses, plus any additional amount required to be paid under replacement housing of last resort.

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, 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 displacement dwelling.