

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. 5:11-3.8.

#### 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. 5:11-3.8.

#### 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. 5:11-3.8.

#### 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.

### 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.

#### Cross References

Payments to businesses, see N.J.A.C. 5:11-3.8.

#### Case Notes

No recovery of attorney's fees incurred trying to obtain relocation assistance. *Middleton v. City of Newark*, 94 N.J.A.R.2d (CAF) 89.

## SUBCHAPTER 4. RELOCATION ASSISTANCE

### 5:11-4.1 Relocation assistance generally

Whenever a displacing agency causes the displacement of an individual or business and that individual is eligible for relocation assistance the nature and extent of that assistance shall be as described in this subchapter.

#### Case Notes

Neither statute nor regulations require relocation within same municipality (citing former regulations). *Rowe v. Pittsgrove Twp.*, 172 N.J.Super. 209, 411 A.2d 720 (App.Div.1980).

Relocation assistance in business condemnation under former regulations; procedure; award; administrative exhaustion requirement. *Paterson Redevelopment Agency v. Schulman*, 78 N.J. 378, 396 A.2d 573 (1979) certiorari denied 100 S.Ct. 210, 444 U.S. 900, 62 L.Ed.2d 136.

### 5:11-4.2 Notification

Whenever a displacing agency determines that their activities shall cause a displacement of individuals or businesses that are eligible for relocation payments and assistance, the displacing agency shall notify those individuals and businesses, in writing, at the earliest possible date of the benefits and obligations of the Act and this chapter. Said notice shall be issued immediately upon the determination of the displacing agency that displacement shall occur. The notice shall contain the nature and types of payments and assistance available, the eligibility criteria, and a notice that the displacee should not vacate the property prior to being authorized to do so in order to remain eligible for payment and assistance and that they should continue to pay rent to the landlord, as provided by the law.

#### Case Notes

Failure of Casino Reinvestment Development Authority to send tenants requisite notice that they should not vacate property before being authorized, so as to remain eligible for relocation assistance, and that tenants should continue to pay rent to landlord as provided by law, was insufficient to create liability on part of the authority. *214 Corp. v. Casino Reinvestment Development Authority*, 280 N.J.Super. 624, 656 A.2d 70 (L.1994).

### 5:11-4.3 Assistance in obtaining housing

(a) Whenever an individual requires assistance in locating replacement housing the displacing agency shall:

1. Provide a list of decent, safe and sanitary replacement housing units that are available for sale or lease.
2. Assist in establishing the displaced individual's priority in subsidized housing and in applying therefor.
3. Provide information necessary for the displacee to obtain mortgage financing; and
4. Provide the name and address of other agencies that provide housing assistance to individuals.

### 5:11-4.4 Providing housing

(a) Whenever an individual is eligible for relocation payments and assistance, a displacing agency may, at its discretion, directly provide decent, safe and sanitary units, whether subsidized or not, that are not less desirable than the unit from which the displacee is displaced. In the event the displacee unreasonably rejects the housing so offered, the duty of the displacing agency to provide assistance is ended.

(b) Any displacing agency that terminates assistance pursuant to (a) above shall notify the displacee in writing of its intention to terminate assistance and the reasons therefor and shall advise the displacee of his or her right of appeal in accordance with N.J.A.C. 5:11-9.2.

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

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

(b) added, requiring notification of termination of assistance.