

"Decent, safe and sanitary housing" means housing that is in sound, clean and weathertight condition and is in conformity with local and state housing and health codes.

"Department" means the Department of Community Affairs.

"Displaced" means required to vacate any real property lawfully occupied pursuant to any order or notice of any displacing agency on account of a program of acquisition, code enforcement proceedings or voluntary rehabilitation of buildings.

"Displacing agency" means any State Agency, unit of local government or publicly funded entity as herein defined.

"Dwelling" means the house, apartment or other residential unit that is the permanent place of principal lawful residence of a person or family and to which such person or family whenever absent has the intention of returning.

"Economic rent" means the fair market rental of the property on the open market.

"Emergency relocation" means when a lawful occupant of a dwelling unit is required to immediately vacate due to the enforcement of any applicable code.

"Family" means two or more individuals, regardless of blood or legal ties, who live together as a family unit.

"Farm operation" means any activity which is conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily, produces commodities in sufficient quantity to be capable of contributing materially to the operator's support. The term "contributing materially" used in this definition means that the farm operation contributes at least one-third of the operator's income.

"Incidental expenses" means the amount of actual costs incurred in the purchase of a replacement dwelling by a person who is displaced including but not limited to fees for legal services, title search, title insurance, recording of title instruments, mortgage applications, payment for loss of favorable financing, and credit reports. Prepaid expenses are not considered "incidental expenses".

"Lawful occupant" means a person whose occupancy of a dwelling unit or property is recognized by the owner and is not the result of a trespass or unauthorized sublease or assignment.

"Person" means any individual or family, owner of a business concern or farm operation, partnership, corporation or association.

"Personal property (tangible personal property)" means:

1. Tangible property which is situated on the real property vacated or to be vacated by a displaced person and which is considered personal property and is non-compensable (other than for moving expenses) under the state law of eminent domain; and

2. In the case of a tenant, fixtures and equipment and other property which may be characterized as real property under state or local law, but which the tenant may lawfully, and at his election determines to move and for which the tenant is not compensated in the real property acquisition. In the case of an owner of real property, the determination as to whether an item of property is personal or real shall depend upon how it is identified in the acquisition appraisals and the closing or settlement statement with respect to the real property acquisitions: provided, that no item of property which is compensable under state law to the owner of real property in the real property acquisition may be treated as tangible personal property in computing actual direct losses of tangible personal property.

"Publicly funded entity" means a private entity that receives public funds from any municipal, county, state or federal program for use in a project that causes displacement.

"State Agency" means any department, division, office, agency or bureau of this state or any authority or instrumentality created or chartered thereby.

"Temporary relocation" means when a lawful tenant is required to move from a dwelling that is undergoing rehabilitation and, upon completion of the rehabilitation, may return.

"Unit of local government" means any political subdivision of this State, or any two or more such political subdivisions acting jointly pursuant to law, and any department, division, office, agency or bureau thereof or any authority of instrumentality created or chartered thereby.

"WRAP" means the Workable Relocation Assistance Plan required to be submitted to the Department for approval prior to the undertaking of any relocation activities.

Amended by R.1984 d.127, effective April 16, 1984.

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

Definitions of "Commissioner" and "Displaced" modified; "WRAP" added.

Amended by R.1987 d.518, effective December 21, 1987.

See: 19 N.J.R. 1596(a), 19 N.J.R. 2388(c).

Added definition "lawful occupant".

Amended by R.1990 d.113, effective February 5, 1990.

See: 21 N.J.R. 3694(a), 22 N.J.R. 336(a).

Added statutory references and amended "unit of local government".

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

#### Law Review and Journal Commentaries

Relocation Assistance. Judith Nallin, 136 N.J.L.J. No. 10, 59 (1994).

## Case Notes

Former N.J.A.C. 5:40-1.7 definition of displaced person valid; assistance award determination. *McNally v. Middletown Twp.*, 182 N.J.Super. 622, 442 A.2d 1075 (App.Div.1982).

Replacement housing must be open in accordance with Civil Rights Act of 1968 (citing former N.J.A.C. 5:40-2.3); no evidence of civil rights violation. *Rowe v. Pittsgrove Twp.*, 172 N.J.Super. 209, 411 A.2d 720 (App.Div.1980).

Tenant in resort-only zone ordered to vacate is displaced so as to qualify for relocation assistance; dwelling defined. *Moran v. Randolph Twp.*, 6 N.J.A.R. 58 (1980).

Tenant occupancy in single family residence zone not lawful occupancy to permit relocation assistance. *Hickey v. Park Ridge*, 5 N.J.A.R. 291 (1983).

No relocation benefits due fire displaces under former regulation. *Wright v. City of Hoboken*, 1 N.J.A.R. 203 (1980).

## SUBCHAPTER 2. ELIGIBILITY

## 5:11-2.1 Building, housing, and health code enforcement

(a) Whenever a State Agency or unit of local government undertakes a program of building code enforcement, housing code enforcement or health code enforcement that causes the displacement of any person, the said State Agency or unit of local government shall provide relocation payments and assistance to all lawful occupants who are displaced, as provided in N.J.A.C. 5:11-3 and 4. The date of eligibility shall be the date occupants received formal written notice to vacate from the State Agency or unit of local government. Said written notice shall include the information required pursuant to N.J.A.C. 5:11-4.2.

(b) An order to vacate issued by a State Agency or unit of local government, pursuant to the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and N.J.A.C. 5:23-2.32(b)1, because a building has become unsafe or uninhabitable as a direct result of a natural disaster, soil subsidence, fire, a latent defect or other sudden and unforeseeable occurrence is not displacement within the meaning of these rules and no relocation benefits shall be due any occupants or former occupants of such a building. However, a municipality may, pursuant to N.J.S.A. 20:4-3.1, voluntarily provide relocation benefits to such displacees but shall receive no reimbursement through any State grant-in-aid for the cost of doing so.

(c) An owner-occupant who is displaced by health, building or housing code enforcement shall not be entitled to relocation benefits if the code violation which resulted in displacement was caused by factors for which the owner is liable. Any such owner-occupant who is entitled to benefits shall be entitled to the benefits applicable to tenants only.

(d) No tenant displaced by code enforcement shall be eligible for benefits if the code violation which resulted in displacement was primarily caused by that tenant's own conduct and not by factors for which the owner is liable under N.J.S.A. 20:4-4.1.

1. In the event that there has been no prosecution of the owner under N.J.S.A. 20:4-4.1, a displaced lawful occupant shall be presumed to be eligible for relocation benefits unless it is established by agreement or by administrative hearing that the code violation was primarily attributable to conduct of the displaced person.

Amended by R.1983 d.59, effective March 7, 1983.

See: 15 N.J.R. 6(b), 15 N.J.R. 330(b).

Added "municipality may provide benefits but shall not be reimbursed by the State".

Amended by R.1984 d.127, effective April 16, 1984.

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

(b) "Act of God" deleted; disaster and imminent hazard substituted.

Amended by R.1987 d.518, effective December 21, 1987.

See: 19 N.J.R. 1596(a), 19 N.J.R. 2388(c).

Added (d).

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

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

In (d), cite to "N.J.A.C." changed to "N.J.S.A.".

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Amended by R.1995 d.386, effective July 17, 1995.

See: 27 N.J.R. 1844(a), 27 N.J.R. 2714(a).

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

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

In (a), amended N.J.A.C. references throughout.

## Law Review and Journal Commentaries

Relocation Assistance. *Judith Nallin*, 136 N.J.L.J. No. 10, 59 (1994).

## Case Notes

Tenant waived any entitlement to relocation assistance by entering into settlement in dispossession action. *Herrera v. Township of South Orange Village*, 270 N.J.Super. 417, 637 A.2d 526 (A.D.1993), certification denied 136 N.J. 28, 641 A.2d 1039.

Landlord may enforce occupancy limits in renewal leases even if tenants would then be in violation of those limits; landlord through lease renewal, which will force the tenant to relocate, may be liable for relocation assistance comparable to what the tenant would have received under N.J.S.A. 2A:18-61.1(g)(3). *M.C. Associates v. Shab*, 226 N.J.Super. 173, 543 A.2d 1006 (App.Div.1988).

Relocation assistance benefits available to tenants whose occupancy was lawful under N.J.S.A. 20:4-4.1 unless it is established by agreement or by administrative hearing that the code violation was primarily attributable to conduct of the tenant. *Haddock v. Passaic, Community Development Dep't, City of Passaic*, 217 N.J.Super. 592, 526 A.2d 725 (App.Div.1987) certification denied 108 N.J. 645, 532 A.2d 228 (1987).

Petitioners, tenants displaced by building code enforcement activities, entitled to relocation assistance. *Haddock v. Passaic*, 10 N.J.A.R. 52 (1985) adopted—Dep't of Community Affairs, affirmed in part, reversed on other grounds and remanded 217 N.J.Super. 592, 526 A.2d 725 (App.Div.1987) certification denied 108 N.J. 645, 532 A.2d 228.

Tenant not entitled to relocation assistance without showing uninhabitable premises. *Kern v. Borough of Belmar*, 97 N.J.A.R.2d (CAF) 20.

Loss of housing which occurred when premises was evacuated for safety of tenants upon broken water main was a natural disaster that precluded payment of relocation benefits. *Union Gardens' v. Township of Montclair*, 95 N.J.A.R.2d (CAF) 85.

Tenants constructively discharged due to health hazards; relocation assistance. *Travers v. The Township of Old Bridge*, 94 N.J.A.R.2d (CAF) 96.

Eviction for nonpayment of rent; relocation assistance. *Varca v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 95.

Relocation assistance; illegal sublease. *Sanchez v. City of Paterson*, 94 N.J.A.R.2d (CAF) 51.

Termination of relocation assistance occurred on determination that repairs ordered by the Bureau of Local Construction Code Enforcement were completed. *Tilton v. Department of Community Affairs*, 93 N.J.A.R.2d (CAF) 51.

Application for relocation assistance was denied for failure to comply with the rental agreement and by willful destruction of the rented property. *McCaskill v. Pennsauken Township*, 93 N.J.A.R.2d (CAF) 12.

Occupant of apartment who received improperly addressed violation notice and who immediately vacated was not entitled to relocation assistance. *Moore v. City of Camden*, 92 N.J.A.R.2d (CAF) 113.

Tenant displaced from premises as result of actions by the township to enforce its zoning ordinance was not entitled to relocation assistance. *Herrera v. Township of South Orange Village*, 92 N.J.A.R.2d (CAF) 85.

Tenant occupying premises in violation of resort-only zoning eligible for relocation assistance as a lawful occupant. *Moran v. Randolph Twp.*, 6 N.J.A.R. 58 (1980).

Determination of landlord-tenant relationship; relocation assistance denied to tenant as not lawful occupant in single family residence zone. *Hickey v. Park Ridge*, 5 N.J.A.R. 291 (1983).

### 5:11-2.2 Programs of acquisition

(a) Whenever any State Agency (except the New Jersey Department of Transportation), unit of local government or publicly funded entity acquires real property that causes the displacement of people, businesses, or farm operations, the said State Agency, unit of local government or publicly funded entity shall provide relocation payments and assistance as provided in N.J.A.C. 5:11-3 and 4; provided, however, that if any acquisition of real property is made using funds provided by any Federal agency, all relocation payments shall be made in accordance with any applicable Federal regulations that provide for a higher level of benefits.

(b) The State Agency, unit of local government or publicly funded entity shall not be relieved of its obligation of providing payments and benefits as provided hereinafter by requiring the owner of a building to cause it to be vacated prior to the acquisition.

(c) The eligibility date for this section shall be the date of the first written offer to purchase the property.

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), language added regarding acquisition of property and concomitant relocation payments with use of Federal funds and Federal benefit levels.

Amended by R.2004 d.222, effective June 21, 2004.  
See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

In (a), amended the N.J.A.C. reference.

### Case Notes

Condemnees whose land was taken for a new school were not entitled to relocation assistance. N.J.S.A. 20:4-1 et seq., 20:4-5. *Carlucci v. Jersey City Bd. of Educ.*, 92 N.J.A.R.2d (CAF) 1.

### 5:11-2.3 Evictions under N.J.S.A. 2A:18-61.1(g)

(a) Whenever an eviction is sought under the provisions of N.J.S.A. 2A:18-61.1(g) by an owner, whether said owner is a person, State Agency or unit of local government, the tenant shall be provided with the relocation payments and benefits as provided in subchapters 3 and 4 of this chapter. The date of eligibility shall be the date the tenant received a formal notice to vacate from the landlord as provided in N.J.S.A. 2A:18-61.2 and the displacing agency shall be deemed to be the State Agency or unit of local government that issues the notice of violation.

(b) The landlord shall provide the Department with the information required in subchapter 7 of this chapter.

(c) In cases where a landlord is to be cited for a violation pursuant to an illegal occupancy which could potentially result in a (g)3 eviction, the following shall be included as an insert sent with the violation notice:

IF, IN SEEKING TO CORRECT THE ILLEGAL OCCUPANCY FOR WHICH YOU HAVE BEEN CITED, IT IS NECESSARY FOR YOU TO EVICT ONE OR MORE TENANTS TO COMPLY, YOU MUST NOTIFY THOSE TENANTS OF THEIR POTENTIAL ELIGIBILITY FOR RELOCATION ASSISTANCE. FURTHER INFORMATION REGARDING YOUR RESPONSIBILITIES AS OWNER PURSUANT TO REGULATIONS CONCERNING EVICTION AND RELOCATION MAY BE OBTAINED BY CONTACTING THE FOLLOWING:

DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF CODES AND STANDARDS  
OFFICE OF LANDLORD-TENANT INFORMATION  
PO BOX 805  
TRENTON, NEW JERSEY 08625-0805  
TELEPHONE: 609-633-6606

Amended by R.1984 d.127, effective April 16, 1984.  
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

(c): address changed.

Amended by R.1994 d.174, effective April 4, 1994.  
See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Amended by R.2004 d.222, effective June 21, 2004.  
See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).

In (c), amended the address.

### 5:11-2.4 Displacement caused by public utilities

Whenever a public utility acquires real property that causes the displacement of persons, businesses or farm operations the public utility shall provide relocation payments and assistance as provided in subchapter 3 of this chapter. The date of eligibility shall be the date of initiation of negotiations.

**5:11-2.5 Programs of rehabilitation**

(a) Whenever a displacing agency undertakes a program of voluntary rehabilitation that causes displacement of persons, businesses or farm operations, the displacing agency shall provide relocation payments and assistance as provided in N.J.A.C. 5:11-3 and 4. The date of eligibility shall be the date the residents are informed by the displacing agency that they must vacate the premises.

(b) In this instance only, the displacing agency shall be deemed to be the person or corporation who is receiving public funds for the rehabilitation and the public agency providing those funds. The public agency shall be responsible for submitting the WRAP (see N.J.A.C. 5:11-6.1(b)) and for complying with N.J.A.C. 5:11-4.

(c) In any case in which a Federal agency is providing funding for a rehabilitation program, relocation payments and assistance shall be made in compliance with applicable Federal requirements, any provisions of subchapters 3 and 4 of this chapter imposing different requirements notwithstanding.

(d) The WRAP submitted by the public agency shall be on standard forms required by the Department as well as in such format as may be required by the funding agency.

Amended by R.1984 d.127, effective April 16, 1984.  
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

(c) and (d) added.  
Amended by R.2004 d.222, effective June 21, 2004.  
See: 36 N.J.R. 1264(b), 36 N.J.R. 3055(c).  
In (b), amended the N.J.A.C. references throughout.  
Administrative correction.  
See: 37 N.J.R. 3637(a).

**SUBCHAPTER 3. RELOCATION PAYMENTS****5:11-3.1 Relocation payments generally**

(a) Whenever a displacing agency causes the displacement of persons, businesses or farm operations and those persons, businesses or farm operations payments shall be as described in this subchapter.

(b) Claims for relocation assistance must be filed within 12 months of the date of permanent resettlement.

Amended by R.1984 d.127, effective April 16, 1984.  
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).

(b) added.  
Amended by R.1989 d.188, effective April 3, 1989.  
See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).

At (b), "receipt by claimant of the notice to vacate ...", deleted; "the date of permanent resettlement", added.

**Case Notes**

Trespassing tenant not entitled to relocation assistance when notice to vacate served. Decree v. City of Newark, 97 N.J.A.R.2d (CAF) 49.

**5:11-3.2 Moving expenses; residential**

(a) An eligible person who is displaced from a dwelling unit and moves his or her personal property therefrom shall receive either:

1. The actual reasonable moving expenses incurred; or
2. A fixed payment, based on the number of rooms in the unit, not to exceed \$300.00 and a \$200.00 dislocation allowance.

(b) Moving expenses shall not be considered unreasonable due to distance if the distance is 50 miles or less. For good cause, a move of more than 50 miles may be deemed reasonable by the displacing agency.

R.1984 d.127, effective April 16, 1984.  
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).  
Recodified from N.J.A.C. 5:11-3.5.  
Amended by R.1994 d.174, effective April 4, 1994.  
See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

**Case Notes**

Moving expense assistance and dislocation allowance awarded (under former codification N.J.A.C. 5:40-3.5). Moran v. Randolph Twp., 6 N.J.A.R. 58 (1980).

Unlawful tenant not entitled to moving expense assistance and dislocation allowance (under former codification N.J.A.C. 5:40-3.5). Hickey v. Park Ridge, 5 N.J.A.R. 291 (1983).

**5:11-3.3 Emergency relocation**

In the event a displacing agency causes a displacement that requires emergency relocation, the displacing agency shall provide a payment of such amount as may be needed so that the displacee may obtain living quarters until permanently relocated. This payment shall be available immediately upon the displacement and shall be charged against the total relocation assistance amount payable in accordance with the statute.

Amended by R.1984 d.127, effective April 16, 1984.  
See: 16 N.J.R. 175(a), 16 N.J.R. 870(b).  
Recodified from N.J.A.C. 5:11-3.11.

Lump sum limited to \$500.00.  
Amended by R.1989 d.188, effective April 3, 1989.  
See: 21 N.J.R. 231(b), 21 N.J.R. 891(a).  
\$500.00 limitation on emergency relocation assistance removed.  
Amended by R.1994 d.174, effective April 4, 1994.  
See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

**5:11-3.4 Temporary relocation**

(a) In the event permanent replacement housing is unavailable or in the instance of rehabilitation of housing wherein the displacee may return to his dwelling, the displacing agency may provide temporary replacement housing with the prior approval of the Department.

(b) Prior to approval of temporary relocation the displacing agency shall assure the Department that:

(b) The Division of Codes and Standards shall provide an administrative hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., to any person aggrieved either by a final determination of a displacing agency which is a State agency or by findings made by the Division pursuant to (a) above.

1. Such hearing shall be conducted under the auspices of the Office of Administrative Law and the final decision shall be made by the Commissioner.

2. Any request for a hearing shall be made in writing within 15 days of receipt of written notice of the State agency determination or findings of the Division, as the case may be, and shall be addressed to Hearing Coordinator, Division of Codes and Standards, PO Box 802, Trenton, New Jersey 08625-0802.

(c) The parties to any hearing before the Office of Administrative Law shall be the displacing agency and the person aggrieved by the final determination of such agency.

1. Representatives of the Division of Codes and Standards may appear at any such hearing to testify as to the findings of the Division.

2. In all cases which it has reviewed, the Division shall provide the Office of Administrative Law and the parties with a determination memorandum setting forth the claims of the parties, the facts as determined by the Division, the regulations, statutory provisions and case law which the Division deems to be applicable, and the Division's conclusions and the reason therefor.

3. Any party to a hearing before the Office of Administrative Law may request accelerated disposition of a case. Any such request shall be made in accordance with the procedure set forth in the rules of the Office of Administrative Law at N.J.A.C. 1:1-9.4.

Amended by R.1981 d.183, effective June 4, 1981.  
See: 13 N.J.R. 186(d), 13 N.J.R. 332(a).

Section substantially amended.

Amended by R.1982 d.487, effective January 17, 1983.

See: 14 N.J.R. 1188(a), 15 N.J.R. 83(b).

Added (c).

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

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

Names of Bureau and Division changed to include "community development" and "development".

Amended by R.1994 d.174, effective April 4, 1994.

See: 26 N.J.R. 289(a), 26 N.J.R. 1493(b).

Amended by R.1995 d.386, effective July 17, 1995.

See: 27 N.J.R. 1844(a), 27 N.J.R. 2714(a).

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

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

Rewrote (b)2; substituted references to the Division of Codes and Standards for references to the Housing Production and Community Development Element throughout.

#### Case Notes

Unsuccessful applicant for relocation benefits was not entitled to a hearing on its claim. In re Berwick Ice, Inc., 231 N.J.Super. 391, 555 A.2d 735 (A.D.1989).

Commissioner of community affairs has the jurisdiction to hear cases brought under the Relocation Assistance Act of 1971 where a municipality is the displacing agency. Atty.Gen.F.O.1979, No. 3.

Local government agency action appealed pursuant to former regulation. Moran v. Randolph Twp., 6 N.J.A.R. 58 (1980).

#### 5:11-9.3 Time for displacing agency final determination

A displacing agency shall have 15 days from the date of request to give written notice of the grant or denial of relocation payments or benefits. In the event written notice is not given within this time, the request will be deemed denied for purposes of N.J.A.C. 5:11-9.2. Notice of denial of relocation payments or benefits shall include the reasons for such denial and notice of the right to request a hearing pursuant to N.J.A.C. 5:11-9.2 and the procedure therefor, including the 15-day time limit for making such request.

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.