

RULES AND REGULATIONS GOVERNING RELOCATION ASSISTANCE

CHAPTER 41.

RULES AND REGULATIONS GOVERNING RELOCATION ASSISTANCE.

PART I.

GENERAL PROVISIONS AND ADMINISTRATION OF PROGRAM.

24 VAC 30-41-10. General.

In order to acquire the rights of way necessary for the construction, reconstruction, alteration, maintenance and repair of the public highways of the Commonwealth, it is often necessary for individuals, families, businesses, farms, and nonprofit organizations to be displaced. A comprehensive program of services and benefits has been established to ensure, to the maximum extent possible, the timely and successful relocation of displacees and reestablishment of businesses. These regulations guide the administration of the relocation program in a manner that is equitable, consistent, and cost effective. They will ensure effective relocation services, and will provide moving reimbursement, replacement housing payments and other cost reimbursements so that individuals displaced will not suffer disproportionate injuries as a result of the Virginia Department of Transportation's (VDOT's) highway improvement program.

24 VAC 30-41-20. Applicability.

The provisions of this chapter are applicable to any person who is displaced by any project on which state or federal funds are or will be utilized. This includes persons displaced from rights

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of way acquired by any city, county or town where right of way is to be furnished as a required contribution incidental to a state or federal assisted highway project.

24 VAC 30-41-30. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

“Business” means any lawful activity, except a farm operation, that is conducted:

1. Primarily for the sale of services to the public; [or]
2. Primarily for the purchase, sale, lease, rental or any combination of these, of personal or real property, or both, or for the manufacture, processing, or marketing of products, commodities, or any other personal property; [or]
3. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
4. By a nonprofit organization that has established its nonprofit status under applicable federal or state law.

“Comparable replacement housing” means a dwelling that is:

1. Decent, safe and sanitary (defined below).
2. Functionally equivalent to the displacement dwelling in that it performs the same function, provides the same utility and is capable of contributing to a comparable style of living. While

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every feature of a displacement dwelling need not be present, the principal features must be provided. Functional equivalency reflects the range of purposes for which the various physical features of a building may be used. Special consideration will be given to the number of rooms, and area of living space. VDOT 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 displacee.

4. In a location generally not less desirable than the displacement dwelling with respect to public utilities, commercial and public facilities, and is reasonably accessible to the displacee's place of employment.

5. On a site typical in size for residential use, with normal site improvements (The site need not include features such as swimming pools or outbuildings).

6. Currently available to the displaced person on the private market. However, a publicly owned or assisted unit may be comparable for a person displaced from the same type of unit.

7. Within financial means of the displaced person.

Comparable replacement housing is the standard for replacement housing that VDOT is obligated to make available to displaced persons. It also is the standard for establishing owner and rental purchase supplement benefits.

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“Contributes materially” means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as VDOT 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% of the owner’s or operator’s average annual gross income from all sources.

If the application of the above criteria creates an inequity or hardship in any given case, VDOT may approve the use of other criteria as determined appropriate.

“Decent, safe and sanitary housing” means that a dwelling:

1. Is structurally sound, weather tight and in good repair;
2. Has a safe electrical wiring system adequate for lighting and appliances;
3. Contains a heating system capable of maintaining a healthful temperature;
4. Is adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced household;
5. Has a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains sink, toilet, and bathing facilities (shower or bath, or both), all operational and connected to a functional water and sewer disposal system;

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6. Provides unobstructed egress to safe open space at ground level. If the unit is above the first floor and served by a common corridor, there must be two means of egress; and

7. Is free of barriers to egress, ingress and use by a displacee who is handicapped.

This is the qualitative and safety standard to which displacees must relocate in order to qualify for replacement housing payment benefits provided by VDOT. Decent, safe and sanitary is also an element in the definition of comparable replacement housing defined above.

“Displaced person” means any person who moves from real property or moves personal property from real property as a direct result of the initiation of negotiations for the acquisition of the property; the acquisition of the real property, in whole or in part, for a project; as a direct result of rehabilitation or demolition for a project; or as a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. If the move occurs after a written order to vacate is issued, the occupant is considered a displaced person even though the property is not acquired.

Persons who do not qualify as a displaced person under these regulations include:

1. A person who moves before the initiation of negotiations, unless VDOT determines that the person was displaced as a direct result of the project;

2. A person who initially enters into occupancy of the property after the date of its acquisition for the project;

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3. A person who is not required to relocate permanently as a direct result of a project. VDOT, after weighing the facts, shall make such determination on a case-by-case basis;

4. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and amendments (42 USC § 4601 et seq.);

5. A person who, after receiving a notice of relocation eligibility, is notified in writing that it would not be necessary to relocate. Such notice shall not be issued unless the person has not moved and VDOT agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;

6. An owner-occupant who voluntarily conveys a property after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, VDOT will not acquire the property. In such cases, tenants who are displaced are eligible for relocation benefits;

7. A person whom VDOT determines is not displaced as a direct result of a partial acquisition;

8. A person who is determined by VDOT to be in unlawful occupancy or a person who has been evicted for cause, under applicable law, prior to the initiation of negotiations for the property; or

9. A person determined to be not lawfully present in the United States.

Only parties designated as "displaced persons" are eligible for relocation benefits.

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“ Dwelling ” means 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, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a nonhousekeeping unit; a mobile home; or any other residential unit.

“ Family ” means two or more individuals, one of whom is the head of a household plus all other individuals, regardless of blood or legal ties, who live with and are considered part of the family unit. Where two or more individuals occupy the same dwelling with no identifiable head of household, they shall be treated as one family for replacement housing payment purposes.

“ 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.

“ Financial means ” of the displaced person means:

1. 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 eligible incidental expenses.
2. A replacement dwelling rented by an eligible displaced person is considered to be within their financial means if, after receiving rental assistance under this part, the person’s monthly

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rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling.

3. 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 VDOT pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30% 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 amount designated for shelter and utilities.

"Increased interest payment" means the amount which will reduce the mortgage balance on a new mortgage to an amount that will be amortized with the same monthly payment for principal and interest as that for the mortgage on the displacement dwelling.

"Nonprofit organization" means an organization that is incorporated under the applicable laws of a state as a nonprofit organization and exempt from paying federal income taxes under § 501 of the Internal Revenue Code (26 USC § 501).

"Owner" means any person who purchases or holds any of the following interests in real property:

1. Fee title, a life estate, a land contract, a 99-year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition;

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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 the preceding two descriptions of interests in real property.

"Person" means any individual, family, partnership, corporation or association.

"Purchase supplement" means the amount which, when added to the acquisition value, equals the cost of comparable replacement housing.

"Rent supplement" means the amount which equals 42 times the difference between base monthly rental of a displacement dwelling including utilities and the monthly rent of a comparable dwelling including utilities.

"Small business" means any business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites operated solely by outdoor advertising signs, displays or devices do not qualify as a small business eligible for reestablishment expenses.

"State agency" means any department, agency, or instrumentality of the Commonwealth; public authority, municipal corporation, local governmental unit or political subdivision of the Commonwealth or any department, agency or instrumentality thereof; person who has the authority to acquire property by eminent domain under state law; or two or more of the aforementioned, which carries out projects that cause people to be displaced.

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24 VAC 30-41-40. Duplication of payment.

A person is not eligible to receive relocation payments if that person receives a payment under federal, state or local law which is determined to have the same purpose and effect as payments under these regulations.

24 VAC 30-41-50. Withholding of relocation payment.

A displacee's relocation payment may be withheld to satisfy any rent owed to VDOT provided such payment would not prevent the displaced person from obtaining comparable replacement housing. However, no relocation payment shall be withheld to satisfy an obligation to any other creditor or for any other purpose.

24 VAC 30-41-60. Relocation payments not considered as income.

No relocation payment received by a displaced person shall be considered as income for the purpose of the Internal Revenue Code or for the purpose of determining the eligibility of any person for assistance under the Social Security Act or any other federal law, except for any federal law providing low-income housing.

24 VAC 30-41-70. Civil rights and equal opportunity requirements.

A. All aspects of the relocation assistance program of VDOT shall be conducted without regard to race, color, religious creed, ancestry, national origin, age or sex. VDOT, through its field representatives, should advise all claimants of this policy of nondiscrimination. Displacees who feel that they have been discriminated against because of any of the factors listed shall be

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advised to write the district right of way and utilities manager (district manager) and explain their situation.

B. Replacement housing listings referred to persons displaced shall be available without regard to race, color, religion, ancestry, national origin, age or sex. Each right of way and utilities office (referred to in this regulation as a district office) shall make parties providing listings aware of this requirement. If any instance of discrimination against displacees by listing agencies or other parties providing listings is reported, the district shall attempt to ascertain the facts of the case. If the charges of discrimination are valid, the listing agency shall be so notified and the listing will no longer be used.

C. Independent contractors employed by the displacee for the purpose of moving the personal property, or to perform any other services related to the relocation, will be expected to observe [~~non-discrimination~~] [nondiscrimination] statutes and policies. If any incidence of discrimination is observed or reported, the contractor involved shall be asked to explain actions taken involving the particular displacee. Appropriate further action will be taken as required by relevant laws and policies.

D. Availability of financing and access to social services, which may be required by the displacee, shall be on a nondiscriminatory basis.

E. Relocation activities will comply with the applicable federal laws and implementing regulations listed in 54 FR 8932, § 24.8.

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24 VAC 30-41-80. Administration of relocation program.

A. Central office organization and responsibility. The right of way and utilities division's relocation section administers the relocation program at the central office level. The primary functions of the relocation section are to promulgate policies and procedures, to monitor program implementation, and to coordinate administrative responsibilities necessary to successfully carry out the provision of the relocation program. The relocation section is staffed with skilled personnel to enable it to monitor program activities in district offices to assure delivery of consistent, fair and high quality services to displacees. It provides advice and policy interpretations to district right of way and utilities offices (referred to in this regulation as district offices) in the administration of complex or unique relocation cases. It monitors the relocation status on all projects, assuring that resources are available and problems are resolved so transportation projects can proceed to construction on schedule. The relocation section maintains close coordination with the district offices to assure adequate levels of staffing and to perform training needed to inform relocation personnel in changing and evolving relocation policy and practices.

B. District organization and responsibility.

1. It is the responsibility of the district office to carry out the relocation program in accordance with the provisions of this policy in a manner which assures timely, orderly and humane treatment of all displaced persons. The district office will perform the program in an

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efficient and orderly manner, so as to clear right of way needed for scheduled transportation project construction.

2. The district manager is responsible for assigning personnel to perform the relocation function and for managing and coordinating their activities.

3. The district office will monitor relocation assistance activities conducted by any other agencies or by consultants performing the relocation function for VDOT projects. Such monitoring will be by whatever means and extent necessary to assure compliance with the provisions of policy, procedures and instructions.

24 VAC 30-41-90. Appeals.

A. It is anticipated that from time to time persons affected by VDOT's relocation program will be dissatisfied with VDOT's determination as to their eligibility or with the amount of payments or services offered. It is the policy of VDOT to provide an opportunity to all persons to have their dissatisfactions heard and considered on an administrative level, without the expense, delay or inconvenience of court adjudication. VDOT's appeal procedure is promulgated to all potentially interested persons through the right of way brochure distributed at public hearings and provided to all displacees.

Persons making the appeal may be represented by legal counsel or any other representative at their expense. However, professional representation is not necessary for an appeal to be heard.

The appellant will be permitted to inspect and copy all materials relevant to the matter

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appealed, except materials which are classified as confidential by VDOT or where disclosure is prohibited by law.

The appeal process consists of two levels. An interim appeal is heard in the district office. If the appellant is not satisfied on completion of the interim appeal, a final appeal may be addressed to the Commonwealth Transportation Commissioner.

B. Interim appeal. When displacees are dissatisfied with VDOT's determination of eligibility, or the amount offered under the relocation assistance and payments statutes, they may appeal in writing. The appeal must be submitted to the district manager within 90 days after receipt of VDOT's written determination. The district manager will schedule an informal hearing. A decision will be made following the hearing. A written copy of the decision, also stating the basis for the decision, will be provided to the appellant. A copy of such decision, along with all pertinent information involving the case, is to be submitted to the director of the right of way and utilities division. The central office relocation manager, or a designated representative, will be present at all interim appeals to provide technical program advice.

C. Final appeal. Upon notification of the district manager's decision, if the displacee is still dissatisfied, an appeal in writing may be submitted to the Commonwealth Transportation Commissioner within 10 days. Upon receipt by the commissioner, the appeal will be referred to a review board consisting of the director of the right of way and utilities division or a designated representative as chairman, a district manager selected by the chairman and not functioning in the area where the displacee resides, and a district administrator or a designated

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representative. The district administrator serving on this board will be the one functioning in the area where the appellant resides. Legal counsel for VDOT may also be present. The review board will schedule a hearing at a time and place reasonably convenient to the appellant. At the hearing all parties will be afforded an opportunity to express their respective positions and submit any supporting information or documents. A Court Reporter will be present to record and provide a transcript of all information presented at the hearing. Upon conclusion of the hearing, the review board will furnish the commissioner a written report of its findings. The commissioner or a designated representative will review the report and render a decision, which shall be final. The appellant and his attorney, if applicable, will be advised of the decision in writing, by certified mail, and will be provided a summary of the basis for the board's decision. If the full relief requested is not granted, the displacee shall be advised of the right to seek judicial review, which must be filed with the court within 30 days after receipt of the final appeal determination.

PART II.

RELOCATION PLANNING AND PUBLIC INFORMATION.

24 VAC 30-41-100. Relocation planning at conceptual stage.

A. A project will be considered to be in the conceptual stage from the time preliminary plans are issued by the location and design division showing alternate roadway location alignments, until the final location is approved.

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B. Upon receipt of location study plans, the district office will perform a review to compile right of way and relocation costs and estimates for each proposed alignment. The information will be secured from visual observations and secondary sources and compiled into a Relocation Assistance Report. Potential displacees will normally not be contacted at this time.

The Relocation Assistance Report will contain the following information:

1. An estimate of households to be displaced, including the family characteristics (e.g., minorities, approximate income levels, tenure, elderly, large families).
2. Divisive or disruptive effect on the community such as separation of residences from community facilities or separation of neighborhoods.
3. Impact of displacement on housing availability where relocation is likely to take place.
4. The number of businesses, nonprofit organizations and farms that would be acquired and the estimated number of employees affected.
5. An assessment of the effect the [~~non-residential~~] [nonresidential] displacements will have on the economy and stability of the community.
6. Major businesses being displaced that will require advance coordination and planning are to be contacted and advised of the studies being made by VDOT and of the opportunities for their input through public hearings and meetings.

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7. A description of available housing in the area that is appropriate to provide housing for the types of families to be displaced. Contact should be made with local real estate firms, listing services, newspapers, housing agencies, local community organizations, etc.

8. A description of special relocation advisory services that will be necessary for identified unusual conditions, such as a concentration of elderly displacees.

9. A description of the actions proposed to remedy insufficient relocation housing, including, if necessary, housing of last resort. In the event it is found that there is an insufficient supply of housing, inquiries should be made of real estate developers, construction firms, public officials and interested parties to determine their willingness to assist in providing the necessary replacement housing and the conditions under which they would be willing to render this service.

10. Outcome of consultation with local officials, service agencies and community groups regarding the impact on the community affected.

11. An estimate of relocation costs, separated as follows:

a. Cost of moving personal property for residential units, businesses, farm operations and nonprofit organizations;

b. Cost of replacement housing payments for displaced individuals and families, including typical mortgage interest differentials and closing costs incident to the purchase of replacement facilities;

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c. Cost potentially incurred by businesses, farms and nonprofit organizations in searching for replacement facilities; and

d. Reestablishment costs for small businesses, farms and nonprofit organizations.

24 VAC 30-41-110. Relocation planning at acquisition stage.

A. Prior to the initiation of negotiations the district relocation section will conduct a pre-acquisition survey of the project. The pre-acquisition survey is primarily a data gathering function to provide an inventory of relevant characteristics, circumstances and relocation needs of all residential and non-residential displacees. It should also include a survey of available comparable replacement housing and replacement sites.

B. The district relocation staff will conduct interviews with individuals, families, businesses, farms and nonprofit organizations within the proposed right of way. It is important that accurate and detailed information be obtained that fully reflects the housing needs of each potential displacee.

When the relocation agent visits the potential displacee, the agent should explain that VDOT is conducting a data-gathering survey and that the visit in no way should be construed as a notice to move, or qualification for any relocation benefits. The following points should be explained to the occupant at the time this contact is made:

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1. The persons involved must be in occupancy of the subject property when VDOT makes the written offer for the parcel (unless a notice of Intent to Acquire is issued) to qualify for relocation payments; and

2. The potential displacee should not make any financial commitments concerning replacement housing at this time. The property has not yet been acquired and a premature move could result in disqualification for benefits they would otherwise receive.

C. The survey should include the following information for each displacement unit:

1. The name, home address, home and work telephone numbers of the displacee and the best time to call.

2. The number of people residing in the dwelling, indicating each person's gender, age, and social security numbers for all adults (an adult is anyone age 18 or older).

3. A description of all buildings on the property and a list of all rooms in the dwelling unit. If a mobile home is situated on the parcel, state the exterior dimensions.

4. Any handicaps or disabilities of the occupants which could affect relocation needs.

5. A statement as to whether or not the dwelling meets decent, safe and sanitary standards. If the dwelling doesn't meet standards, an explanation should be included.

6. The type of displacee, (owner or tenant) and identification of the type of dwelling unit now occupied, (house, apartment, room or mobile home). If the displacee is a tenant, determine if the unit is furnished or unfurnished.

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7. The gross family income from all sources including wages, interest, social security, welfare (excluding food stamps), disability payments and other untaxed income.

8. The date the family occupied the dwelling. Care should be exercised in completing this item as it establishes eligibility for various relocation benefits. For tenants, an outside source, owners' rental records, etc., should verify the date of occupancy. Conflicting information about occupancy status must be resolved if they affect eligibility. Rent paid and the cost and type of utilities included in the rent should be secured. Also, determine if a special tenant-landlord relationship exists (son-father, etc.) and determine if the tenant performs any services in lieu of rent.

9. If an owner-displacee has an outstanding mortgage, the monthly payment, interest rate, original amount, term, and the unpaid balance should be secured.

10. The displacee's replacement housing intentions and preferences (specific school district, location, etc.).

24 VAC 30-41-120. Public meetings and hearings.

A. General requirements. The district office will present information on real estate acquisition and displacement impacts and relocation services and benefits, at public meetings and hearings. An opportunity will be provided for public comments and questions. Copies of the right of way brochure will be available at all public meetings and hearings and distributed to interested individuals and organizations upon request.

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B. Corridor (location) public hearing. The district office will present a summary of relocation program services, benefits and important qualification criteria, and a summary of the following relocation information compiled for the Relocation Assistance Report:

1. The estimated number of displacements of each classification that would be caused by each of the alignments under consideration;
2. The availability of relocation assistance and services, eligibility requirements and payment procedures.
3. A summary of the process and the methods that will be employed to assure that the housing needs of the displacees will be met.

C. Highway design or combined location and design public hearings. A presentation including the following information will be made at all design or combined location and design public hearings for projects on which the displacement will occur:

1. That no person shall be displaced from a residence unless a comparable replacement dwelling is available.
2. The services available under VDOT's relocation assistance advisory program, the address and telephone number of the local relocation office and the name of the relocation agent in charge.
3. The estimated number of individuals, families, businesses, farms and nonprofit organizations to be displaced.

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4. The estimated number of dwelling units presently available that meet replacement housing requirements.

5. An estimate of the time necessary for relocation and the number of dwelling units meeting the replacement housing requirements that will become available during that period.

6. VDOT's replacement housing program need not be recited in detail because the brochure adequately covers these topics and a reference to secure answers to specific questions has been provided. It is important to selectively present items of special importance, such as the need to be in occupancy at initiation of negotiations to be eligible for benefits.

PART III.

WRITTEN NOTICES.

24 VAC 30-41-130. General.

Written notices must be furnished each displaced person to ensure full understanding of the benefits and services available. A copy of the notices referred to in 24 VAC 30-41-140, 24 VAC 30-41-150, and 24 VAC 30-41-160 must be placed in the project files after delivery to each recipient.

24 VAC 30-41-140. Notice of intent to acquire.

A. The purpose of the notice of intent to acquire is to establish eligibility for relocation benefits prior to the initiation of negotiations for the parcel. It is utilized in exceptional circumstances to relieve hardship to displacees. It is primarily applicable to residential owners who are prevented

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from selling a home because of the knowledge in the area of an impending project. It is also applicable to tenants and to owners of unimproved property.

B. The Virginia Department of Transportation (VDOT) must determine that a hardship exists for the occupants of the property in order to utilize the notice of intent to acquire. Such hardship may arise from a change in employment requiring a move; illness or infirmity making it difficult to live in and maintain the occupied property; or financial inability to pay costs of ownership or rental.

C. When the notice of intent to acquire is furnished to an owner, it must also be furnished to any tenants within 15 days. When the notice is furnished a tenant, the owner must simultaneously be furnished with a copy of such notice.

D. The notice letter will include a statement of eligibility, the anticipated date of initiation of negotiations for the acquisition of the parcel and how additional information on relocation assistance benefits and services can be obtained.

E. The notice of intent to acquire will be issued only after authorization is received to initiate negotiations on the project, or authorization of acquisition of individual parcels solely for protective buying or because of hardship. When the notice is issued, every effort should be made to acquire the property as soon as possible, to prevent possible subsequent tenant occupancy and to minimize rental vacancy loss for the owner.

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24 VAC 30-41-150. Notice of replacement housing payment.

A. Residential owners and tenant occupants will be advised in person or by certified mail of the amount of the maximum replacement housing payments for which they are eligible. This notice will also provide the specific comparable dwelling which was used as the basis for the purchase or rental supplement and which is referred to as available for occupancy.

B. When feasible the Replacement Housing Payment Notice should be delivered at the time of the initiation of negotiations for the parcel.

C. If the maximum purchase or rent supplement payment cannot be established prior to the initiation of negotiations due to unusual circumstances which exist, such as large household size, low family income, unusually large number of rooms in the existing dwelling, absence of available comparable dwellings, or any combination of these, the owners will be fully advised of the entitlement to benefits during the first negotiations contact. They will also be advised that they will not be required to move until at least 90 days after the date when comparable housing is offered and they are informed of the maximum replacement housing benefit amount for which they are eligible. Tenants for whom payment amounts are not yet established will be similarly advised.

24 VAC 30-41-160. 90-Day assurance notice.

A. The construction or development of a highway project must be scheduled so that to the greatest extent practicable assurance will be made that no person lawfully occupying

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real property will be required to move from a dwelling, business, farm or nonprofit organization for at least 90 days from the date the written offer for the property is made by the department.

B. A 90-day assurance notice will be issued when a written offer for the property is made. In the case of a residential displacee, the 90-day assurance notice ~~can~~ will be issued ~~only~~ [on or] after the [date a] written offer for the property and the replacement housing payment offer have been made. The 90-day assurance notice will state that the displaced person will not be required to move from a dwelling, business, farm or non-profit organization before 90 days from the date of the notice. The 90-day [assurance] notice will further state the displaced person will be given a [30-day] [specific date by which the property must be vacated in a final] written notice [with] [to be issued at least 30 days in advance of] the specific date [by which the property must be vacated].

C. The ~~[30-day]~~ [final] written notice may be given to the displaced person at the time the department has legal possession of the property, ~~[providing the time is at least 60 days after the date of the 90-day notice]~~ [provided the specific vacation date is at least 90 days after the date the written offer for the property was made and at least 30 days in advance of the date the property must be vacated]. No ~~[30-day]~~ [final] written notice will be required where a displaced person moves prior to the time such notice should be

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given. The file should indicate that the displaced person moved prior to the [30-day] [final] notice being issued.

PART IV.

RELOCATION ADVISORY SERVICES.

24 VAC 30-41-170. General.

The relocation advisory services program will be carried out so that displacees will receive uniform and consistent services and payments regardless of race, color, religion, sex, or national origin. The services provided under this section are intended to assist displacees in relocating to decent, safe and sanitary housing that meets their needs. The services will be provided by personal contact. If personal contact cannot be made, the district office will document the file to show that reasonable efforts were made to achieve the personal contact.

Relocation advisory services shall be offered to:

1. Any displaced person as defined in 24 VAC 30-41-30.
2. Any person occupying property immediately adjacent to the real property acquired when VDOT determines that such person or persons are caused substantial economic injury because of the acquisition.
3. Any person who, as a result of the project, moves, or moves personal property from real property not being acquired for the project.

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24 VAC 30-41-180. Relocation offices.

A. The need for the establishment of a relocation office to service the displacees located on a project will be determined on a project-by-project basis by the district manager. The main criteria for establishing a project office will be whether such an office would be efficient and responsive to displacee needs and an efficient use of staff resources. An adequate sign clearly visible to the public will identify all project site offices.

B. A local relocation office must be easily accessible to project area residents and business operators and shall be open during normal work hours and during evening hours when necessary to serve the project displacees. The office should be arranged so as to afford privacy during meetings with project residents and other persons having business at the office. At least one relocation agent will be assigned to the office with the primary responsibility of providing relocation assistance. The agent will be required to maintain regular contact with the project's displacees and be available for evening appointments at the convenience of the displacees.

The following information should be available:

1. Local ordinances pertaining to housing, building codes and open housing.
2. Consumer educational literature on housing, shelter costs and family budgeting.
3. Copy of VDOT's relocation brochure.

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4. A current and continuing list of decent, safe and sanitary replacement dwellings, both for rent and for sale. The list will contain only fair and open housing available to persons without regard to race, color, religion, or national origin.

5. A similar list of commercial properties and locations for business.

6. Current data for such costs as security deposits for utilities, leases and closing costs, typical down payments, interest rates and terms, taxes, assessments, etc.

7. Maps showing location of schools, parks, playgrounds, shopping areas and appropriate public transportation routes, schedules and costs.

8. Any other important information of value to displacees.

24 VAC 30-41-190. Minimum advisory assistance service requirements.

A. Advisory assistance service will be provided by personal face to face contact with displacees whenever possible. Services will include measures, facilities or services necessary or appropriate to:

1. Determine the relocation needs, preferences and intentions of each person to be displaced.

2. Explain the relocation eligibility requirements and the procedures for obtaining such assistance. This will include a personal interview with each person. These actions are taken in the normal course of the pre-acquisition and negotiations phases.

3. Advise displacees that payments are not considered income for tax purposes.

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4. Provide current and continuing information on the availability, purchase prices and rental costs of comparable replacement dwellings. Explain that no one can be required to move unless a comparable replacement dwelling is available.

5. Inform the person of the specific comparable replacement dwelling and the price or rent used as the basis for establishing the upper limit of relocation payments. The basis for the determination should be explained.

6. Provide reasonable opportunity to minority persons to relocate to decent, safe and sanitary replacement dwellings, not located in areas of minority concentration, that are within their financial means. This policy, however, does not require VDOT to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

7. Offer all displacees, especially the elderly and handicapped, transportation to inspect housing to which they are referred.

8. Provide current and continuing information on the availability, purchase prices and rental costs of suitable commercial properties and locations for businesses.

9. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

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10. Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available and such other help as may be appropriate.

11. Supply persons to be displaced with appropriate information concerning federal and state housing programs, disaster loans and other similar programs administered by federal and state agencies.

Advisory services will be offered on a basis commensurate with the displacee's needs. This may require only minimum assistance when displacees are involved who are well informed, mentally, physically and financially able to manage their displacement and who neither need nor desire VDOT's assistance. A much greater degree and intensity of services and assistance will be provided to those who are elderly, infirm, immobile or otherwise unable to cope with their displacement or economic problems.

B. The relocation agent must offer relocation assistance to every displacee. The displacee may specifically state that there is no need for assistance, other than providing payment offers and processing claims. Even then, the agent must make a subjective judgment as to the ability of the displacee to competently locate, acquire and occupy a decent, safe and sanitary replacement dwelling. If the relocation agent does not feel the displacee possesses the ability to relocate without help, the agent should make efforts to furnish assistance or refer other service providers having specialized knowledge, skills and programs.

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C. The relocation agent will notify the displacee in writing of the availability of comparable replacement housing, even though the displacee may have no intention or desire to relocate into the specific dwelling units being referred. The relocation agent can fulfill this requirement by informing the displacee of the comparable replacement housing utilized in the supplemental evaluation and other lower priced comparables. The agent can then tailor continuing relocation efforts to locating replacement housing that meets the particular desires of the displacee.

D. The relocation agent should develop a multitude of sources for replacement housing. These sources will include, but are not limited to the following:

1. Real estate brokers and boards of realtors;
2. Multiple listing agencies;
3. Real estate developers;
4. Housing and Urban Development (HUD) and Veterans Administration (VA) area and region offices;
5. Builders and construction associations;
6. Real estate management firms;
7. Public housing agencies;
8. Newspaper advertisements;
9. Mobile home dealers; and

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10. Banks and other lending institutions.

E. The relocation agent should maintain contact, exchange information and coordinate its relocation activities with other displacing agencies and with community organizations rendering services useful to displaced persons. Such agencies should include, but not be limited to: Social Welfare Agencies, Urban Renewal Agencies, Redevelopment Authorities, Federal Housing Administration, Veterans Administration, Small Business Administration, Farmer's Home Administration, Department of Community Affairs, Department of Housing and Urban Development and local Chambers of Commerce. Local private nonprofit housing service organizations and other community organizations should also be contacted and informed of general displacement activities and needs.

F. Once the displacee locates replacement housing, the agent should be sufficiently knowledgeable in real estate practices to guide the displacee through the procedures necessary to obtain this housing. It is not the responsibility of the agent to assume the role of the various real estate professions. The agent should however counsel the displacee concerning lease and purchase agreement provisions, security deposits, earnest money, mortgages and other forms of financing, closing costs and settlement procedures. The agent should advise the displacee to enter a decent, safe, and sanitary inspection clause in any lease or purchase agreement for replacement housing.

G. It is the duty of the agent to ensure that the displacee receives all payments and benefits to which the displacee is legally entitled. In order to facilitate the payment process, the agent shall

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assist the displacee in completing all required forms, as well as obtaining any necessary supporting documentation for the payment.

H. Immediately after each contact with the displacee, the agent shall enter on the contact record (Library Form RW-68A) a summary of topics discussed and conclusions or agreements reached. The record should indicate:

1. Date of the contact;
2. Person contacted;
3. Topics discussed;
4. Displacee's attitude and opinion;
5. Notation of available replacement housing offered, if any; and
6. Any other pertinent information obtained during the contact.

PART V.

MOVING COSTS - RESIDENTIAL MOVES.

24 VAC 30-41-200. General.

A. A displaced individual or family is entitled to receive a payment for moving personal property. The displacee has the option of a payment based upon the actual reasonable moving expenses (commercial move or self-move), a fixed payment that is based on VDOT's room count schedule, or, in unusual circumstances, any combination of the above. An example of such a

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circumstance would be to have a commercial mover that will move the household items, but will not move certain personal property stored in a shed. The displacee can remove the items from the shed as a self-move.

B. The displacee is required to file a written application, Form RW-60A with VDOT and obtain approval prior to the date on which the move is to be accomplished. After the move has been completed, the displacee must complete and submit a relocation certification claim, Form RW-67A, within 18 months after the later of the following dates:

1. The date the displacee moves from the real property, or moves personal property from real property; or
2. The date of acquisition.

C. For relocation program purposes, a "family" is defined as two or more persons who share the same dwelling unit. Two or more occupants who share the same dwelling unit before displacement may relocate into separate units. If the move to separate units results from unavailability of units that will accommodate all persons, the occupants may each be reimbursed either on an actual cost basis or on a schedule move, which includes a dislocation allowance for each family. When the move into separate dwelling units is a voluntary decision and a single comparable dwelling unit is available, they may be reimbursed on a prorated share of the estimated cost of a single move as determined by VDOT. Alternatively, schedule move payments will be based on the number of rooms actually occupied by each family plus community rooms utilized by each family.

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24 VAC 30-41-210. Actual reasonable moving expenses.

A. Move performed by commercial mover.

1. If a displaced individual or family desires to have a move performed by a commercial mover, the assigned relocation agent will obtain bids or estimates from two reputable moving companies. VDOT may pay the cost of obtaining bids or estimates, if approved by the district manager. VDOT will retain the right to reject any and all bids. The agent will also assure that all bids or estimates received are based upon the same move specifications and personal property inventory. The maximum payment will be the amount of the lowest acceptable bid or estimate. Since the displaced individual or family has the right to engage the services of any company, VDOT will pay the amount of receipted bills, but not to exceed the amount of the approved low bid or estimate.

2. If the actual cost of the move exceeds the estimated amount, the excess amount may be paid, if sufficient documentation is presented with the claim and the district recommends payment.

3. The displacee may present an unpaid mover's bill, along with the moving cost claim form, to VDOT for direct payment to the mover.

B. Self-move. An actual cost move may be carried out by the displacee in a self-move for actual, reasonable, and necessary costs expended. The relocation staff should work with the displacee to determine an amount necessary to move the personal property. The displacee may be reimbursed for time spent in moving. The hourly rate of the displacee's time should be

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reasonable and should not exceed the rates paid to skilled packers and movers of local moving firms. Receipts or other evidence of expenses are necessary for reimbursement. Displacees may not move themselves based on the cost of a commercial move.

C. Reimbursable costs include:

1. Transportation of personal property not to exceed 50 miles.

2. Transportation of persons up to 50 miles, at a mileage rate determined by VDOT, or actual reasonable cost. Special transportation, such as an ambulance for infirm displacees, may also be approved.

3. Packing, crating, unpacking and uncrating of the personal property.

4. Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances and other personal property.

5. Storage of the personal property for a period not to exceed 12 months, unless the district office determines that a longer period is necessary. Storage costs cannot be paid if the storage site is a part of the acquired property or other property owned, leased or controlled by the displacee.

6. Insurance for the replacement value of the property in connection with the move and necessary storage.

7. The replacement value of property lost, stolen or damaged in the process of moving (through no fault or negligence of the displaced person, or an agent or employee of the

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displaced person) when insurance covering such loss, theft or damage is not reasonably available.

D. The following costs are ineligible for reimbursement as residential move expenses:

1. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership;
2. Interest on a loan to cover moving expenses;
3. Personal injury;
4. Expenses for searching for a replacement dwelling; and
5. Additional expenses of living in a new location.

24 VAC 30-41-220. Moving expense schedule.

A. In lieu of a payment for actual costs, a displaced person or family who occupies the acquired dwelling may choose to be reimbursed for moving costs based on a moving expense schedule established by VDOT based on a room count. The schedule is revised periodically, based on a survey of movers, to reflect current costs. The schedule is used by all acquiring agencies throughout the state by agreement coordinated by the Federal Highway Administration.

The room count used will include occupied rooms within the dwelling unit plus personal property located in attics, unfinished basements, garages and outbuildings, or significant outdoor storage. Spaces included in the count must contain sufficient personal property as to constitute a room.

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B. A person with minimal personal possessions who is in occupancy of a dormitory style room shared by two or more other unrelated persons, or if the move is performed by VDOT at no cost to the person, shall be limited to \$50.

C. The cost to move a retained dwelling, any other structure, or any item determined to be real estate prior to the move, is not a reimbursable moving cost. However, if an owner-occupant retains the dwelling, including a mobile home, and chooses to use it as a means of moving personal belongings and furnishings, the owner-occupant may receive a moving cost payment based upon the moving expense schedule.

D. A discussion of residential move reimbursement options is contained in the "Guidance Document for Determination of Certain Financial Benefits to Displacees" (~~[to become effective the same date as this regulation]~~ [effective November 21, 2001]).

PART VI.

MOVING COSTS - BUSINESSES, FARMS AND NONPROFIT ORGANIZATIONS.

24 VAC 30-41-230. General.

A. The operator of a displaced business, farm or nonprofit organization is entitled to receive payment for the following categories of actual costs associated with moving:

1. Moving costs for relocating all personal property including machinery, equipment and fixtures and disconnect/reconnect costs;
2. Search costs for a replacement location not to exceed \$1,000; and

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3. Reestablishment expenses not to exceed \$25,000.

All moving expenses will be actual and reasonable. To assure this, the district office will monitor the process of conducting inventories, developing move specifications, securing commercial moving bids and estimates and observing the conduct of the move. Emphasis will be directed toward moves that are of a complicated nature or involve a substantial expenditure.

B. As an alternative to the actual cost reimbursement as explained above, the displaced business, farm or nonprofit organization that meets certain criteria may choose to receive a fixed payment in lieu of actual moving expenses not less than \$1,000 or more than \$50,000. The specific amount is based on the net income of the displaced business, farm or nonprofit organization.

The reimbursable actual moving expenses and the fixed payment in lieu of moving expenses are explained in detail in the remainder of this part.

C. The displaced business, farm, or nonprofit organization is required to file a written application, Form RW-60B with VDOT and obtain approval prior to the date on which the move is to be accomplished. After the move has been completed, the displacee must complete and submit a relocation certification claim, Form RW-67B, within 18 months after the later of the following dates:

1. The date the displacee moves from the real property, or moves personal property from real property; or

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2. The date of acquisition.

24 VAC 30-41-240. Certified inventory.

A. The owner of the displaced entity will prepare an inventory of the items to be actually moved. The inventory will be certified as true and correct as of a specific date by the person making it, as well as the owner of the business. The inventory will be provided to the district office along with the moving cost application, Library Form RW-60B.

B. The inventory will be checked against VDOT's approved appraisal for the real estate to preclude the possibility of paying to move items which have been classified as real estate. This inventory will also be furnished to all interested bidders in order to ensure that all bids are based on moving the same personal property.

In a complex or expensive move the assigned relocation agent will visually confirm the accuracy of the inventory as an element of monitoring the move.

24 VAC 30-41-250. Actual reasonable moving costs.

A. Eligible and ineligible moving costs. The following items are eligible for reimbursement as moving costs if they are reasonable and are actually incurred during the moving process:

1. Transportation costs for moving the personal property. The transportation charges will normally be reimbursed for up to the first 50 miles of travel. When the move exceeds 50 miles, all estimates should be prepared based upon a move of 50 miles. Similarly, the mover's bill must be detailed to show transportation costs for the first 50 miles as well as the cost for

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the remainder of the distance. When VDOT determines that the business cannot be relocated within a 50-mile limit, reimbursement will be allowed to the nearest adequate and available site.

2. Packing, crating, unpacking and uncrating the personal property.

3. Disconnecting, dismantling, removing, reassembling and reinstalling relocated machinery, equipment and other personal property. This includes connections to utilities available nearby. It also includes modification of the personal property necessary to adapt it to the replacement structure, the replacement site or the utilities at the replacement site and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right of way to the building or improvement are excluded.)

4. Storage costs not to exceed 12 months, including moving in and out of storage. Storage costs for a longer period may be approved if the district manager determines that a longer period is necessary. Costs for storage of personal property on a site owned, leased or controlled by the displaced person are not eligible.

5. Insurance for replacement value due to the loss, theft or damage to the personal property in connection with the move and necessary storage. Where insurance is not reasonably available, the replacement value of property lost, stolen or damaged in the process of moving may be paid, unless the loss results from fault or negligence of the displaced person, their agent, or employee.

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6. Any license, permit or certification required at the replacement location. The payment may be based on the remaining useful life of the existing permit, license or certification.

7. Professional services necessary for planning the move, moving and installing personal property at the replacement location. This can include the displacee's time, provided the claim is well documented.

8. The relettering of signs and the cost of replacing stationery on hand at the time of the move that are made obsolete by the acquisition.

9. Other moving related expenses that are not listed as ineligible in 24 VAC 30-41-250 B as determined to be reasonable and necessary.

B. The following items are ineligible for reimbursement as moving costs:

1. Any additional expense incurred because of operating at a new location except as provided as a business reestablishment expense;

2. Cost of moving structures, improvements, or other items of realty retained by the owner;

3. Physical changes to the real property at the replacement location of a business, farm or nonprofit organization except as provided for in subsection A of this section and 24 VAC 30-41-310;

4. Interest on loans to cover moving expenses;

5. Loss of goodwill;

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6. Loss of trained or skilled employees, or both;

7. Loss of business or profits, or both; and

8. Personal injury.

24 VAC 30-41-260. Moves performed by a commercial mover.

The district office will secure two independent bids or estimates from reputable and qualified moving companies, which VDOT may pay for if necessary. The movers will be provided with the certified inventory of the personal property to be moved. Arrangements will be made for an inspection of the site from which property will be moved. Bids will be solicited with the understanding that VDOT has the right to reject any and all bids. It is incumbent upon the district office to see that all bids received are based on the certified inventory and move specifications. The maximum payment will be limited to the lowest acceptable bid. The displacee has the right to engage any moving company to accomplish the move, and VDOT will pay the amount for the move supported by receipted bills not to exceed the amount of the approved low bid.

24 VAC 30-41-270. Self-moves.

A. Businesses, farms and nonprofit organizations have the option of performing a self-move. When the district office can obtain two acceptable bids or estimates from qualified moving firms based on the certified inventory, the owner may be paid the actual reasonable moving cost, not to exceed the amount of the low bid.

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B. If such bids or estimates cannot be obtained, the business may submit a bid based on the actual, reasonable, and necessary expenses for a self-move. Labor is to be charged at the actual rates paid by the business, but not to exceed the rate charged by local moving firms for the same services. Receipts or other evidence of expenses must be submitted before payment is made to support actual cost.

C[.] In the case of a low-cost, uncomplicated move, a moving cost finding, not to exceed \$2,500, may be prepared by qualified district office staff.

D[.] It is possible to have a business move in which part of the move is a self-move and another part is a professional move.

24 VAC 30-41-280. Low value, high bulk personal property.

When personal property which is used in connection with the business to be moved is of low value and high bulk, such as firewood, sand, gravel, etc., and the estimated cost of moving would be disproportionate in relation to its value, the district office may negotiate with the owner for an amount not to exceed the difference between the cost to replace the item and the amount which would probably have been received for the item or items on liquidation. This amount may not exceed the estimated cost of moving the property. However, the owner retains the right to have the property moved if desired.

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24 VAC 30-41-290. Actual direct losses of tangible personal property.

A. Actual, direct losses of tangible personal property are allowed when a person who is displaced from a business, farm or nonprofit organization is entitled to relocate such property but elects not to do so. This may occur if an item of equipment is bulky and expensive to move, but is obsolete and the owner desires to replace it with a new item that performs the same function. Payments for actual, direct losses can be made only after an effort has been made by the owner to sell the item involved. When the item is sold, payment will be determined in accordance with subsection B or C of this section. If the item cannot be sold, the owner will be compensated in accordance with subsection D of this section. The sales prices and the cost of advertising and conducting the sale, must be supported by copies of bills, receipts, advertisements, offers to sell, auction records and other data supporting the bona fide nature of the sale.

B. If an item of personal property which is used in connection with the business is not moved but is replaced with a comparable item at the new location, the payment will be the lesser of:

1. The replacement cost minus the net proceeds of the sale. Trade-in value may be substituted for net proceeds of sale where applicable; or

2. The estimated cost of moving the item to the replacement site but not to exceed 50 miles.

C. If the item is not to be replaced in the reestablished business, the payment will be the lesser of:

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1. The difference between the market value of the item in place for continued use at its location prior to displacement less its net proceeds of the sale; or

2. The estimated cost of moving the item to the replacement site but not to exceed 50 miles. (See "Guidance Document for Determination of Certain Financial Benefits for Displacees" (~~to become effective the same date as this regulation~~ [effective November 21, 2001]) for example.)

D. If a sale is not effected under subsection B or C of this section because no offer is received for the property and the property is abandoned, payment for the actual direct loss of that item may not be more than the fair market value of the item for continued use at its location prior to displacement or the estimated cost of moving the item 50 miles, whichever is less, plus the cost of the attempted sale, irrespective of the cost to VDOT of removing the item.

E. The owner will not be entitled to moving expenses or losses for the items involved if the property is abandoned with no effort being made to dispose of it by sale, or by removal at no cost. The district manager may allow exceptions to this requirement for good cause.

F. The cost of removal of personal property by VDOT will not be considered as an offsetting charge against other payments to the displaced person.

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24 VAC 30-41-300. Searching expenses.

A. A displaced business, farm operation, or nonprofit organization is entitled to reimbursement for actual expenses, not to exceed \$1,000, as VDOT determines to be reasonable, which are incurred in searching for a replacement location, and includes expenses for:

1. Transportation. A mileage rate determined by VDOT will apply to the use of an automobile.
2. Meals and lodging away from home.
3. Time spent searching, based on reasonable salary or earnings.
4. Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.

B. Documentation for a move search claim will include expense receipts and logs of times, dates and locations related to the search. (See "Guidance Document for Determination of Certain Financial Benefits for Displacees" (~~[to become effective the same date as this regulation]~~ [effective November 21, 2001]) for example.)

24 VAC 30-41-310. Reestablishment expenses.

A. A small business, farm or nonprofit organization may be eligible to receive a payment, not to exceed \$25,000, for expenses actually incurred in reestablishing operations at a replacement site. A small business, farm or nonprofit organization that elects a fixed payment in lieu of actual moving expenses is not eligible for a reestablishment expense payment.

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B. Eligible expenses. Reestablishment expenses must be reasonable and actually incurred. They may include the following items:

1. Repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance;

2. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business;

3. Construction and installation costs for exterior signing to advertise the business;

4. Providing utilities from right-of-way to improvements on the replacement site;

5. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting;

6. Licenses, fees and permits when not paid as part of moving expenses;

7. Feasibility surveys, soil testing and marketing studies;

8. Advertisement of replacement location;

9. Professional services in connection with the purchase or lease of a replacement site;

10. Increased costs of operation during the first two years at the replacement site for such items as:

a. Lease or rental charges;

b. Personal or real property taxes;

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c. Insurance premiums; and

d. Utility charges, excluding impact fees.

11. Impact fees or one-time assessments for anticipated heavy utility usage.

12. Other items that VDOT considers essential to the reestablishment of the business.

A discussion of business reestablishment costs is contained in the "Guidance Document for the Determination of Certain Financial Benefits to Displacees" ([to become effective the same date as this regulation] [effective November 21, 2001]).

C. Ineligible expenses. The following is a nonexclusive listing of ineligible reestablishment expenditures.

1. Purchase of capital assets, such as office furniture, filing cabinets, machinery or trade fixtures;

2. Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the business operation;

3. Interest on money borrowed to make the move or purchase the replacement property; and

4. Payment to a part-time business in the home which does not contribute materially to the household income.

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24 VAC 30-41-320. Fixed payment in lieu of actual costs.

A. A displaced business, farm or nonprofit organization, meeting eligibility criteria may receive a fixed payment in lieu of a payment for actual moving and related expenses. The amount of this payment is equal to its average annual net earnings as computed in accordance with subsection E of this section, but not less than \$1,000 nor more than \$50,000.

B. Criteria for eligibility. For an owner of a displaced business to be entitled to a payment in lieu of actual moving expenses, the district office must determine that:

1. The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and, it vacates or relocates from its displacement site.

2. The displaced business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless VDOT determines, for a stated reason, that it will not suffer a substantial loss of its existing patronage.

3. The business is not part of a commercial enterprise having more than three other entities which are not being acquired by VDOT and which are under the same ownership and engaged in the same or similar business activities. (For purposes of this rule, any remaining business facility that did not contribute materially to the income of the displaced person during the two taxable years prior to displacement shall not be considered "other entity.")

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4. The business is not operated at displacement dwelling or site solely for the purpose of renting such dwelling or site to others.

5. The business contributed materially to the income of the displaced person during the two taxable years prior to displacement. However, VDOT may waive this test for good cause. A part-time individual or family occupation in the home that does not contribute materially to the displaced owner is not eligible.

C. In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

1. The same premises and equipment are shared;

2. Substantially identical or interrelated business functions are carried out and business and financial affairs are co-mingled;

3. The entities are held out to the public and to those customarily dealing with them, as one business; and

4. The same person, or closely related persons own, control, or manage the affairs of the entities.

The district office will make a decision after consideration of all the above items and so advise the displacee.

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D. A displaced farm operation may choose a fixed payment in lieu of the payments for actual moving and related expenses in an amount equal to its average annual net earnings as computed in accordance with subsection E of this section, but not less than \$1,000 nor more than \$50,000. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if VDOT determines that:

1. The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
2. The partial acquisition caused a substantial change in the nature of the farm operation.

A displaced nonprofit organization may choose a fixed payment of \$1,000 to \$50,000 in lieu of the payments for actual moving and related expenses if VDOT determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless VDOT demonstrates otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses.

Gross revenues for a nonprofit organization include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables the nonprofit organization to operate. Administrative expenses are for administrative support, such as rent, utilities, salaries, advertising and other like items, as well as fund raising expenses.

Operating expenses are not included in administrative expenses.

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E. Payment determination. The term "average annual net earnings" means one-half of all net earnings of the business or farm before federal, state and local income taxes, during the two tax years immediately preceding the tax year in which the business or farm is relocated. If the two years immediately preceding displacement are not representative, VDOT may use a period that would be more representative. For instance, proposed construction may have caused recent outflow of business customers, resulting in a decline in net income for the business.

The term "average annual net earnings" include any compensation paid by the business to the owner, spouse, or dependents during the two-year period. In the case of a corporate owner of a business, earnings shall include any compensation paid to the spouse or dependents of the owner of a majority interest in the corporation. For the purpose of determining majority ownership, stock held by a husband, his wife and their children shall be treated as one unit.

If the business, farm or nonprofit organization was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate.

F. Information to be provided by owner. For the owner of a business, farm or nonprofit organization to be entitled to this payment, the owner must provide information to support the net earnings of the business, farm or nonprofit organization. State or federal tax returns for the tax years in question are the best source of this information. However, certified financial statements can be accepted as evidence of earnings. The tax returns furnished must either be

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signed and dated or accompanied by a certification from the business owner that the returns being furnished reflect the actual income of the business as reported to the Internal Revenue Service or the State Department of Taxation for the periods in question. The owner's statement alone would not be sufficient if the amount claimed exceeded the minimum payment of \$1,000.

A more complete discussion of this benefit is contained in the "Guidance Document for Determination of Certain Financial Benefits for Displacees" (~~[to become effective the same date as this regulation]~~ [effective November 21, 2001]).

PART VII.GENERAL PROVISIONS FOR REPLACEMENT HOUSING PAYMENTS.24 VAC 30-41-330. General.

Individuals and families displaced from a dwelling are eligible for purchase or rental supplement payments in accordance with the provisions of this part. The purpose of the purchase or rental supplement is to enable the displaced household to relocate to decent, safe and sanitary replacement housing that is within financial means. The specific type of payment will depend on the status as owner or tenant and length of occupancy at the displacement dwelling. There are also conditions for payment including the requirement that the displacee occupy replacement housing that meets decent, safe and sanitary standards and submit a claim within the required period. The key terms used in this part are defined as follows:

"Incidental expenses" mean closing and other costs incidental to the purchase of a replacement dwelling.

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"Increased interest payment" means the amount which will reduce the mortgage balance on a new mortgage to an amount that will be amortized with the same monthly payment for principal and interest as that for the mortgage on the displacement dwelling.

"Purchase supplement payment" means the amount which, when added to the acquisition value, equals the cost of comparable replacement housing.

"Rent supplement payment" means the amount which equals 42 times the difference between base monthly rental of a displacement dwelling and the monthly rent of a comparable dwelling.

"Replacement housing payment" means the total of the amounts established for a displacee under the definitions listed in this section.

24 VAC 30-41-340. Fully eligible occupants.

A. A fully eligible owner-occupant of 180 days or more may receive either a purchase supplement payment plus increased mortgage interest costs and incidental costs not to exceed \$22,500 or a rent supplement not to exceed \$5,250.

A fully eligible owner-occupant of between 90 and 180 days or a tenant-occupant of at least 90 days may receive either a down payment supplement including closing costs, not to exceed \$5,250 or a rent supplement, not to exceed \$5,250.

B. The above limits of \$22,500 and \$5,250 do not apply if a displacee's circumstances with regard to available replacement housing require the use of Last Resort Housing provisions. It is VDOT's obligation to enable the displacee to relocate to comparable replacement housing while

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retaining original status as either an owner or a tenant. This obligation overrides any monetary limit, which would otherwise apply. Refer to Part XI (24 VAC 30-41-650 et seq.) for last resort housing provisions.

24 VAC 30-41-350. Partially eligible occupants.

A person who occupies a dwelling prior to its acquisition by VDOT, but who did not occupy it long enough (90 days) to gain full eligibility, may still qualify for a last resort housing rent supplement when a comparable rental is not available at or below 30% of the person's monthly gross income.

When length of occupancy places a person in this category, a rent supplement computation using 30% of the person's monthly gross income as the base rent must be computed and offered. Regardless of the amount, an offer under these circumstances must be documented using last resort housing procedures (see 24 VAC 30-41-660).

24 VAC 30-41-360. Requirements to receive payment.

A. In addition to length of occupancy provisions, the displaced person must occupy a decent, safe and sanitary dwelling, as defined in 24 VAC 30-41-30, within one year, beginning on the following dates:

1. Owner-occupant of 180 days or more. The date on which the owner received payment of the entire consideration for the acquired dwelling in negotiated settlements; or in the case of

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condemnation, the date on which the certificate was filed and the amount set forth in the certificate was made available for the benefit of the owner.

2. Tenant-occupant of 90 days or more. The date on which the move occurs. An occupancy affidavit (Form RW-62C) shall be secured as evidence of occupancy.

A displaced person who cannot occupy the replacement dwelling within the one-year time period because of construction delays beyond reasonable control, will be considered to have purchased and occupied the dwelling as of the date of the contract to purchase. The replacement housing payment under these conditions may be deferred until replacement housing is actually occupied.

B. Upon relocating, the displacee must properly complete the appropriate application, Library Form RW-65A(1), RW-65B[(1)], or RW-65C(1) to receive a replacement housing payment and submit them to the district manager. The application must be filed no later than six months after the expiration of the one-year period specified in subdivisions A 1 and A 2 of this section. In condemnation cases the one-year period is extended to six months after final adjudication. The district office must stamp the application to show the date of its receipt. Where husband and wife both hold title to the property, or there is more than one owner-occupant, each owner must sign the application for payment. In the case of tenant-occupants, each must sign the application for payment.

C. The payment may be made directly to the displaced persons whose names are on the application for payment. On written instruction from a tenant-displacee, payment may be made

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to the lessor for rent. For an owner, payment may be made to the seller or lending agency at closing on the replacement property. If payment is made at closing, it will be personally delivered by a district office employee who will remain present to assure that the full purchase supplement amount is credited to the purchase of the replacement dwelling. If this is performed, the occupancy requirement will be considered met at the completion of closing, providing an occupancy agreement has been signed.

24 VAC 30-41-370. Inspection for decent, safe and sanitary housing.

Before submitting the displacee's claim for payment, a district relocation agent must inspect the replacement dwelling and determine that it meets the standards for decent, safe and sanitary housing. This inspection is to be made to the extent necessary to obtain the information to accurately complete Library Form RW-69B. A copy of Library Form RW-68A showing the dates and substance of all contacts with the displacee must accompany this completed form. This inspection is made solely for the purpose of determining the eligibility of relocated individuals and families for payment under this section and is not a representation for any other purpose.

24 VAC 30-41-380. Multiple occupancy of same dwelling unit.

A. If eligible multiple occupants occupy the same dwelling unit, they will be considered to constitute a family for relocation purpose if a comparable replacement dwelling is available. The occupants are entitled to only one replacement housing or rent supplement payment. If a comparable replacement dwelling is not available, a replacement housing or rent supplement payment for each occupant will be based on housing which is comparable to the quarters

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privately occupied by each occupant plus community rooms which have been shared with other occupants.

B. When all individuals displaced from one dwelling do not relocate into decent, safe and sanitary housing, those individuals who do relocate into decent, safe and sanitary housing will be paid the pro rata share of the appropriate payment they would have received if all individuals had relocated together in the same ownership or rental status as they had at the time of initiation of negotiations.

C. If eligible multiple occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by VDOT, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling.

D. If VDOT determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

PART VIII.

REPLACEMENT HOUSING PAYMENTS FOR OWNER-OCCUPANTS FOR 180 DAYS OR MORE.

24 VAC 30-41-390. General.

A displaced owner-occupant of a dwelling may receive a replacement housing payment, the elements of which will not exceed \$22,500 except when last resort housing has been authorized. The elements included in the replacement housing payment are: additional costs

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necessary to purchase replacement housing (purchase supplement); compensation to the owner for the increased interest cost and other debt service costs which are incurred in connection with a mortgage or mortgages on the replacement dwelling; and reimbursement to the owner for expenses incidental to the purchase of replacement housing when such costs are incurred as specified by the provisions of this chapter.

The purchase supplement is the amount, if any, which when added to the amount for which VDOT acquired the dwelling, equals the actual cost which the owner is required to pay for a decent, safe and sanitary dwelling or, if lesser, the amount determined by VDOT as necessary to purchase a comparable decent, safe and sanitary dwelling.

24 VAC 30-41-400. Eligibility.

An owner-occupant is entitled to a replacement housing payment when:

1. The owner is in occupancy at the initiation of negotiations for the acquisition of the property, or is in occupancy at the time a written notice of intent to acquire is delivered by VDOT;
2. Such ownership and occupancy has been for at least 180 consecutive days immediately prior to the earlier of the initiation of negotiations, or the date of vacation if a notice of intent to acquire has been issued;
3. Purchase and occupancy of a decent, safe and sanitary dwelling has occurred within the specified time period; and

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4. If otherwise eligible, the owner-occupant can receive these payments if the move was a result of the initiation of negotiations, even though VDOT did not acquire the property.

24 VAC 30-41-410. Purchase of replacement dwelling.

A. For the purpose of this section, a displaced person "purchases" a dwelling when:

1. An existing decent, safe and sanitary dwelling is acquired.

2. A life estate in a retirement home is purchased. The actual cost will be entrance fee plus any other monetary commitments to the home, except periodic service charges may not be considered. The replacement housing payment is limited to the reasonable cost of purchasing a comparable replacement dwelling less the acquisition cost of the acquired dwelling.

3. A dwelling previously owned or acquired is relocated or rehabilitated, or both. The basis for determining the purchase supplement will be the current value of the dwelling at the time of relocation.

4. Construction is completed or contracts have been executed for the construction of a new dwelling on a site owned or acquired. The actual cost provision limits the reimbursable construction cost to only those costs necessary to construct a dwelling comparable to the one acquired. The costs of adding new features that clearly exceed comparable features in the displacement dwelling are not eligible for reimbursement. Eligible costs of the site will be limited to the current residential fair market value of the replacement site rather than what the displaced person actually paid for it.

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5. Any person who has obtained legal ownership of a replacement dwelling or land upon which the replacement dwelling is located, constructed or relocated to, either before or after displacement and occupies the replacement dwelling after being displaced, but within the time limit specified in 24 VAC 30-41-360 is eligible for a replacement housing payment if the replacement dwelling meets the decent, safe and sanitary standards. The current fair market value of land and dwelling will constitute the "actual cost" in the replacement housing determination.

B. When the replacement dwelling has decent, safe and sanitary deficiencies, the cost to correct such deficiencies may be added to the current fair market value of a previously owned dwelling, or the purchase price of the acquired replacement dwelling.

24 VAC 30-41-420. Advance replacement housing payments in condemnation cases.

An advance replacement housing payment may be paid to a property owner if the payment of the acquisition price for the displacement dwelling is delayed pending the outcome of condemnation proceedings. A provisional replacement housing payment may be determined by using the amount of the Certificate as the acquisition price.

Payment can be made upon the owner-occupant signing the agreement included on Library Form RW-65A(1) that:

1. Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court.

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2. If the amount awarded by the court for the value of the residential unit exceeds the Certificate amount, the displacee will make a refund for any excess replacement housing payment resulting from the court judgment. The difference in the replacement housing payment will be deducted from the court award before final payment is made. However, in no event will the refund be more than the amount of the replacement housing payment advanced. If the property owner fails to execute the Provisional Replacement Housing Payment Clause on Library Form RW-65A, the replacement housing payment will be deferred until the case is adjudicated.

24 VAC 30-41-430. Purchase supplement payment computation.

A. Method.

1. The probable selling price of a comparable dwelling will be determined by the district office by analyzing at least three dwellings from the inventory of available housing, Library Form RW-69B, which are available on the private market and which meet the criteria of a comparable replacement dwelling. Less than three comparables may be used for this determination when fewer comparable dwellings are available. The relocation agent performing the determination must provide a full explanation supporting the determination, including a discussion of efforts to locate more than one comparable. One comparable, from among those evaluated and considered, will be selected as the basis for the purchase supplement determination. The selection will be made by careful consideration of all factors in

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the dwellings being considered which affect the needs of the displacee with reference to the elements in the definition of comparable replacement housing.

Refer to the "Guidance Document for Determination of Certain Financial Benefits for Displacees" (~~[to become effective the same date as this regulation]~~ [effective November 21, 2001]) for a step-by-step summary of the determination process, and an example of the purchase supplement payment computation.

2. If comparable decent, safe and sanitary housing cannot be located, after a diligent search of the market, available non-decent, safe and sanitary replacement dwellings may be used as the basis for the maximum amount of the purchase supplement. In these cases, the maximum payment will be established by obtaining cost estimates from persons qualified to correct the decent, safe and sanitary deficiencies and adding this amount to the probable selling price of the available replacement housing.

A displacee will not be required to vacate the displacement dwelling until decent, safe and sanitary housing has been made available.

3. Consideration will be given to adjusting the asking price of the comparable dwelling selected as the basis for the Purchase Supplement Determination. This will be done to the extent that local housing market data reflects a difference between asking or listing prices and sale prices. If the asking price of the selected comparable dwellings is adjusted the agent will advise the displaced person concerning negotiations practices, to enable the displacee to enter the market as a knowledgeable buyer. If a displaced person elects to purchase the

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comparable, but cannot acquire the property for the adjusted price, it is appropriate to increase the replacement housing payment up to the offer or listing amount. Where a dwelling is obviously overpriced in relation to other comparables, it may not be used in the replacement housing computation.

B. Major exterior attributes. When the dwelling selected in computing the payment is similar, except it lacks major exterior attributes present at the displacement property such as a garage, outbuilding, swimming pool, etc., the appraised value of such items will be deducted from the acquisition cost of the acquired dwelling for purposes of computing the payment. No exterior attributes are to be added to the comparable. However, the added cost of actually building an exterior attribute at the replacement property occupied, may be added to the acquisition cost provided major exterior attributes having the same function are found in the displacement property and in the comparable used to determine the maximum payment.

The following calculation shows how a purchase supplement is determined when a major exterior attribute is present:

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<u>Example</u> <u>Major Exterior Attribute (swimming pool)</u>	
<u>The appraiser assigned \$5,000 contributing value for the pool, and a total property value of \$100,000. A comparable house, not having a pool, is listed for sale at \$105,000. After a 3% adjustment, a probable selling price of \$101,850 is determined for the comparable property. The purchase supplement amount is computed below:</u>	
<u>Comparable Dwelling (adjusted)</u>	<u>\$101,850</u>
<u>Less:</u>	
<u>Displacement property value</u>	<u>\$100,000</u>
<u>Less value of the pool</u>	<u>\$ 5,000</u>
<u>Adjusted displacement property value</u>	<u>\$ 95,000</u>
<u>Purchase Supplement Amount</u>	<u>\$ 6,850</u>

C. Comparable housing not available.

1. In the absence of available comparable housing upon which to compute the maximum replacement housing payment, the district office may establish the estimated selling price of a new comparable decent, safe and sanitary dwelling on a typical home site. To accomplish this, the district office will contact at least two reputable home builders for the purpose of obtaining firm commitments for the cost of building a comparable dwelling on a typical home site.

2. If the only housing available greatly exceeds comparable standards, a payment determination may be based on estimated construction cost of a new dwelling which meets, but does not exceed, comparable standards.

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24 VAC 30-41-440. Highest and best use other than residential.

When the acquired dwelling is located on a site where the fair market value is established on a use higher and better than residential, the purchase supplement maximum amount will be determined by deducting the acquisition price of the acquired dwelling plus the acquisition price of that portion of the acquired land which represents a tract typical in size for the area from the probable selling price of the most comparable listing. The following calculation shows how this amount is determined:

<u>Example</u> <u>Acquired Dwelling on Commercial Zoned Site</u>	
<u>The acquired house (whole take) is on a five-acre site zoned commercial. The typical residential lot in the area is one acre. The land is appraised at \$50,000/acre and the dwelling is valued at \$10,000 as an interim use.</u>	
<u>A comparable house on a residentially zoned lot is available for \$70,000 (after adjustment). The maximum purchase supplement amount is determined below:</u>	
<u>Comparable property</u>	<u>\$70,000</u>
<u>LESS: Value of the house acquired on one acre</u>	<u>\$60,000</u>
<u>Maximum Purchase Supplement Amount</u>	<u>\$10,000</u>

24 VAC 30-41-450. Mixed-use properties.

A. When the acquired dwelling unit is part of a structure which also includes space used for nonresidential purposes, the amount of the purchase supplement offer will be determined by using only that part of the fair market value that is attributable to the residential use of the acquired property. The following calculation shows how this amount is determined:

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<u>Example</u>		
<u>Displacement Property in Residential and Commercial Use</u>		
<u>A grocery storeowner lives in a two-bedroom, one-bath apartment above the store. The residential unit has 1,200 sq. ft. of habitable living space. The property is appraised at \$150,000. The appraiser allocated 40% of total property value to the residence.</u>		
<u>There are several two-bedroom, one-bath units available for sale. They are: (i) a duplex with two identical units - \$125,000; (ii) a single-family house - \$75,000; (iii) a condo unit in a sixplex - \$50,000.</u>		
<u>Most comparable property: a) duplex unit.</u>	<u>Value</u>	<u>\$62,500</u>
<u>LESS: Displacement dwelling.</u>	<u>Value</u>	<u>\$60,000</u>
<u>Maximum Purchase Supplement Amount</u>		<u>\$ 2,500</u>

When the replacement property is a structure which includes space used for nonresidential purposes, only that part of the total cost that relates to the value of the owner's living unit will be used when determining the purchase supplement payment.

B. When the replacement property contains buildings other than the residence which are used for ~~[non-residential]~~ [nonresidential] purposes, the value of these buildings must be carved out of the entire purchase price of the replacement property in order to determine the residential use value. The residential use value will represent the amount paid for replacement housing when determining the purchase supplement payment amount. The following calculation shows how this amount is determined:

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<u>Example</u> <u>Displacee Purchases Mixed Use Replacement Property</u>
<u>A family displaced from a single-family house (acquisition value \$80,000, purchase supplement \$10,000) contracts to purchase an operating chicken farm for \$250,000. They will live in the farmhouse, which has an estimated value separate from the farm of \$85,000. The displaced family submits a claim for the full \$10,000 maximum purchase supplement amount.</u>
<u>The family is eligible to receive \$5,000, not \$10,000, as a Purchase Supplement Payment. Before processing the claim for payment, the district office must determine the value of the farmhouse on a lot normal for residential use in the area. This will determine the payment ceiling. The part of the purchase price attributable to the farm operation (\$165,000) is not to be considered in the claim. This should have been explained to the displaced family members before they search for replacement property.</u>

C. When the acquired property consists of a multi-family structure of which one unit is owner-occupied, the amount of the supplemental offer will be the difference between the value of one unit of a multi-family comparable and the value of the owner occupied residential-use portion of the acquired property. When the replacement property is a multi-family structure, only the value of the owner's living unit can be used to determine the supplemental payment, not the entire purchase price. The purchase supplement amount will be the price of one unit of a multi-family comparable or the price of one unit of a multi-family replacement, whichever is less, minus the residential use portion of the acquired property.

The following calculation shows how this amount is determined:

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<p><u>Example</u> <u>Owner Displaced from Condominium Unit</u></p>
<p><u>The acquired dwelling is a condominium unit in a building containing three stores and six residential units. The appraised value of the building is \$1 million. The value of the displacee's unit is \$120,000.</u></p>
<p><u>The purchase supplement is the cost of a comparable condo unit in a similarly configured building having residential and commercial units, less the \$120,000 attributed to the displacement unit.</u></p>
<p><u>There may not be a condominium unit on the market in a mixed use, six residential unit building. Look for units in buildings having five, four, three, or two units. Use the "most comparable" unit considering the ownership form and configuration of units, as well as other factors.</u></p>

24 VAC 30-41-460. Partial take of a typical residential site.

A. Remaining buildable site. If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential site, VDOT will offer to purchase the entire property. If the owner refuses to sell the remainder which is a buildable site to VDOT, the fair market value of the remainder will be added to the acquisition cost of the acquired property for the purposes of computing the maximum purchase supplement payment.

B. Remaining uneconomic remnant. If the owner refuses to sell the residue that is an uneconomic remnant to VDOT, the value of the take and damages to the remainder will be used in computing the replacement housing payment.

C. Larger tract than normal. If the acquired property is a dwelling on a significantly larger site than typical for residential use in the area, the maximum replacement housing payment is the

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asking price of a comparable replacement dwelling on a tract typical in size for residential use, less the acquisition price of the acquired dwelling and the portion of the site which represents a typical size residential lot in the area. The following calculation shows how this amount is determined:

<u>Example</u> <u>Partial Take From Larger than Typical Residential Site</u>	
<u>The displacement dwelling is on a five-acre site. One-acre lots are typical in the area. The house and three acres are being acquired. Appraised value: \$125,000 (no remainder damage). The appraiser valued land at \$5,000/acre. A comparable house on one acre is available. It is estimated it will sell for \$120,000 (adjusted listing price).</u>	
<u>Comparable property</u>	<u>\$120,000</u>
<u>LESS: Displacement property*</u>	<u>\$115,000</u>
<u>Maximum Purchase Supplement Amount</u>	<u>\$ 5,000</u>
<u>* \$10,000 value of two acres of acquisition area excess to typical lot has been deducted.</u>	

24 VAC 30-41-470. Payment to occupant with a partial ownership.

A. When a displacement dwelling is owned by several persons and occupied by only some of the owners, the replacement housing payment will be the lesser of:

1. The difference between the owner-occupants' share of the acquisition cost of the acquired dwelling and the actual cost of the replacement; or,
2. The difference between the total acquisition cost of the acquired dwelling and the amount determined by the district as necessary to purchase a comparable dwelling.

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Generally, the circumstance of partial owner occupants arises when the ownership comes from a family inheritance, where one or more, but not all the heirs, occupy the property.

B. If the displaced partial owner-occupants rent rather than purchase a replacement dwelling, they will be entitled to receive a rent supplement payment if they rent and occupy a decent, safe and sanitary dwelling in accordance with the provisions of 24 VAC 30-41-510 of this chapter.

C. If unusual circumstances would create an unintended hardship on the occupants with a partial ownership, the full facts along with a recommended solution are to be submitted to the central office for consideration.

24 VAC 30-41-480. Revisions to replacement housing amount.

Housing must be offered which is available for purchase within the offered amount. When comparable housing is no longer available within the amount initially established, the district office will review the housing market and establish a revised replacement housing amount. In no event will a purchase supplement amount previously offered be reduced as the result of this review.

24 VAC 30-41-490. Increased interest payments.

A. General. Increased interest payments are provided to compensate a displaced person for higher increased interest costs required for financing a replacement dwelling. The increased interest payment will be allowed only when the dwelling acquired by VDOT was encumbered by

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a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days before the established eligibility date under Part [7] [VII (24 VAC 30-41-330 et seq.)] (usually date of initial offer to purchase). All bona fide mortgages on the dwelling acquired by VDOT will be used to compute the increased interest portion of the replacement housing payment. Home equity loans are valid mortgages on residential real property regardless of how the proceeds from the loans are used. Therefore, they must be included in the computation. In the case of a home equity loan the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less. When the property is secured with an adjustable rate mortgage, the mortgage interest rate that is current on the property as of the date of acquisition will be used in the computation. The displaced person will be advised of the approximate amount of this payment as soon as the facts relative to the person's current mortgages are known. The payment will be made at the time of closing on the replacement dwelling, so that the new mortgage can be reduced.

B. Payment computation. The computation of the payment for increased interest costs will be the amount which will reduce the mortgage balance on the replacement dwelling to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage or mortgages on the displacement dwelling. The amount of the increased interest payment will be computed by the district office, utilizing Library Form RW-66, based on:

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1. The unpaid mortgage balances on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance computed in the buydown determination, the payment will be prorated and reduced accordingly.

2. The remaining term of the mortgage or mortgages on the displacement dwelling or the term of the new mortgage, whichever is shorter.

3. The interest rate on the new mortgage which shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

C. To whom payment is made. The increased interest amount can be paid to the displaced individual or family. On written instruction from the displacee, it can be paid to the mortgagee of the replacement dwelling. Upon specific request, VDOT can make an advance payment into escrow prior to the displacee moving.

The following calculation shows how this increased interest cost is determined:

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<u>Example</u> <u>Increased Mortgage Interest Payment</u>	
<u>FACTS:</u>	
<u>1. Outstanding balance – acquired dwelling mortgage</u>	<u>\$43,210</u>
<u>2. Outstanding balance – replacement</u>	<u>\$47,000</u>
<u>3. Remaining term, in months, acquired dwelling mortgage</u>	<u>212</u>
<u>4. Term, in months, replacement dwelling mortgage</u>	<u>360</u>
<u>5. Interest rate – acquired dwelling mortgage</u>	<u>7.5%</u>
<u>6. Interest rate – replacement mortgage</u>	<u>8.0%</u>
<u>DETERMINATION:</u>	
<u>1. Monthly payment required to amortize a loan of \$43,210 in 212 months at an annual rate of 7-1/2%</u>	<u>\$368.38</u>
<u>2. Amount of reduced loan having a monthly payment of \$368.38 for 212 months at interest rate of 8%</u>	<u>\$41,749</u>
<u>3. Increased Mortgage Interest Payment:</u> <u>\$43,210 - \$41,749</u>	<u>\$1,462</u>

D. Partial acquisition.

1. When the displacement or the replacement dwelling is located on a tract larger than normal for residential use in the area, the interest payment will be reduced to the percentage ratio that the respective acquisition price bears to the value of the part of the property normal for residential use property, except the reduction will not apply when the mortgagee requires the entire mortgage balance to be paid because of the acquisition and it is necessary to refinance.

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2. Where a dwelling is located on a tract larger than normal for residential use in the area, the total mortgage balance will be reduced to the percentage ratio that the value of the residential portion bears to the before value for computational purposes. This reduction will apply whether or not it is required that the entire mortgage balance be paid.

E. Multi-use properties. The interest payment on the multi-use properties will be reduced to the percentage ratio that the residential value of the multi-use property bears to the before value.

F. Other highest and best use. If the dwelling is located on a tract where the fair market value is established on a higher and better use than residential and if the mortgage is based on residential value, the interest payment will be computed as provided in the appropriate subsection above. If the mortgage is obviously based on the higher use, however, the interest payment will be reduced to the percentage ratio that the estimated residential value of the parcel has to the before value.

24 VAC 30-41-500. Incidental expenses (closing costs incurred in purchase of replacement dwelling).

The incidental expenses payment is the amount necessary to reimburse the homeowner for the reasonable costs actually incurred incidental to the purchase of the replacement dwelling, but not for prepaid expenses such as prepaid real estate taxes, fire insurance, etc. Such costs include the following items if normally paid by the buyer:

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1. Legal, closing and related costs, including those for title search and mortgage insurance, preparing conveyance instruments, notary fees, preparing surveys and plats and recording fees;
2. Lender, Federal Housing Administration (FHA) or Veterans Administration (VA) appraisal fees;
3. FHA or VA application fee;
4. Certification of structural soundness when required by the lender;
5. Credit report;
6. Owner's and mortgagee's evidence of title, e.g., title insurance, (not to exceed the cost for the comparable replacement dwelling);
7. Escrow agent's fee;
8. State and local revenue or documentary stamps, sales or transfer taxes charged to record deed (not to exceed the costs for a comparable replacement dwelling);
9. Loan origination or assumption fees that do not represent prepaid interest;
10. Purchaser's points, but not seller's points, normal to similar real estate transactions; [and]
11. Such other costs as VDOT determines to be incidental to the purchase[;] [.]

No fee, cost, charge or expense is reimbursable as an incidental expense when it is determined to be part of the debt service or finance charge under the Truth in Lending Act. Except when

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the replacement housing amount is paid into escrow, the combined total of the payments under this section will be claimed and paid in a lump sum.

24 VAC 30-41-510. Owner-occupant for 180 days or more who rents.

A. An owner-occupant eligible for a replacement housing payment under this section who elects to rent a replacement dwelling is eligible for a rental replacement housing payment not to exceed \$5,250. The amount of a rent supplement also will not exceed the amount the displaced family would have received had the family purchased replacement housing.

B. The payment is to be computed and disbursed in accordance with the provisions of 24 VAC 30-41-520, except that the present rental rate for the displacement dwelling will be the economic rent.

C. An owner-displacee retains eligibility for a replacement housing payment if replacement housing is purchased and occupied within one year after the date of final payment is received for the acquired property. Further, eligibility to submit a claim for relocation benefits extends for 18 months from the date of final payment for the acquired property. An owner who initially rents replacement housing may later purchase and qualify for a replacement housing payment. The total amount of the rent and the purchase supplements, however, will not exceed the amount that would have been received if the displacee had initially purchased replacement housing.

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PART IX.

REPLACEMENT HOUSING BENEFITS FOR TENANTS, AND OWNERS WHO CHOOSE TO RENT

REPLACEMENT HOUSING.

24 VAC 30-41-520. General.

A. A residential tenant who was in occupancy at the displacement dwelling for 90 days or more before the initiation of negotiations for the property is eligible to receive a rent supplement to provide for relocation to comparable replacement housing. An owner-displacee who was in occupancy from 90 - 179 days before the initiation of negotiations is eligible for the same benefits as the tenant-displacee of 90+ days.

B. A displaced owner or tenant eligible under this category can receive a replacement housing payment not to exceed \$5,250 to rent a decent, safe and sanitary replacement dwelling. A tenant may be eligible for a down payment supplement up to \$5,250. The monetary limit of \$5,250 for a rental replacement housing payment, or a down payment supplement, does not apply if provisions of Last Resort Housing are applicable (see Part XI (24 VAC 30-41-650 et seq.)).

C. A discussion of rent supplement determination is found in the "Guidance Document for the Determination of Certain Financial Benefits to Displacees" ([to become effective the same date as this regulation] [effective November 21, 2001]).

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24 VAC 30-41-530. Payment computation.

A. The rental replacement housing determination is 42 times the amount obtained by subtracting the base monthly rental including utilities (heat, electric, water and sewer) for the displacement dwelling from the lesser of:

1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling as defined in 24 VAC 30-41-30; or
2. The monthly rent and estimated average monthly cost of utilities for the decent, safe and sanitary replacement dwelling actually occupied by the displaced person.

B. The district office will determine the rental rates of comparable housing by use of the three comparable methods (24 VAC 30-41-430), except with regard to the adjustment of asking price. Less than three comparables may be used for this determination when it is concluded, after a diligent search, that fewer comparable rental units are available. If the determination is based on fewer than three comparables, the project file will be documented as to the efforts to locate comparable housing.

C. The base monthly rental for the displacement dwelling is the lesser of:

1. The average monthly cost for rent and utilities at the displacement dwelling during the last three months. For an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent

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unless its use would result in a hardship because of the person's income or other circumstances; or

2. Thirty percent of the average gross household income from all sources. Income must be supported by tax documents, employer verification, etc. If the district manager determines that income is not disclosed or the amount is not adequately supported, the benefit will be based on rent and utilities in subdivision 1 of this subsection.

D. Utility costs of heat, electricity, water and sewer must be included in both the displacement and selected comparable rent. Reasonable efforts should be made to secure accurate information. The displacee's utility bills or a statement from the utility company is best. If actual costs are not available, a reasonable estimate should be made based on size and type of unit and other factors. The basis for the utility estimate should be documented in the project file.

E. If the displacee receives public assistance that allocates an amount for housing costs and the displacee has been informed of such allocation, the payment will be considered within the individual's financial means and the rent supplement will be computed in accordance with this section.

24 VAC 30-41-540. Disbursement of rental replacement housing payment.

The rental payment, in the amount of \$5,250 or less, as determined in 24 VAC 30-41-530 shall be paid in a lump sum, unless the district manager determines that it should be paid in installments.

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24 VAC 30-41-550. \$5,250 limit on offers.

A rent supplement payment offer is limited to \$5,250 under normal program authority. VDOT has an overriding responsibility, however, to enable tenant displacees to rent replacement housing within their financial means. See 24 VAC 30-41-30 for the definition of "financial means." If the payment computation exceeds \$5,250, last resort housing provisions are applicable. See Part XI (24 VAC 30-41-650 et seq.) for last resort housing provisions.

24 VAC 30-41-560. Change of occupancy.

If a tenant, after moving to a decent, safe and sanitary dwelling, relocates within the one-year period specified in 24 VAC 30-41-~~[340]~~ [360] to a higher cost rental unit, another claim may be presented for the amount in excess of that amount which was originally claimed, but not to exceed the total rent supplement originally computed.

24 VAC 30-41-570. Down payment benefit - 90-day tenants.

A. A displaced tenant eligible for a rental replacement housing payment who elects to purchase a replacement dwelling in lieu of accepting such rental assistance payment may elect to apply the entire computed payment to the purchase of a replacement dwelling. This payment may be increased to any amount, not to exceed \$5,250, for the purchase of a replacement dwelling and related incidental expenses.

B. VDOT has a responsibility to enable a displacee to relocate to housing of the same tenancy or ownership status as was occupied before displacement. Efforts will be made through

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advisory assistance and the down payment benefit to assist a tenant to move to ownership, but the achievement of ownership by tenants is not a program requirement.

24 VAC 30-41-580. Section 8 Housing Assistance Program.

A. Program features.

1. Section 8 is a rent subsidy program funded by the U.S. Department of Housing and Urban Development (HUD), to enable low-income families to rent privately owned decent, safe and sanitary housing. Section 8 is administered by local housing agencies. Landlords receive a subsidy representing the difference between 30% of an eligible tenant's adjusted gross household income, and reasonable housing rent as determined under program rules.

There are three types of Section 8 housing:

- a. A certificate based on the income of the recipient and the rent paid;
- b. A voucher, which pays a specific amount toward the recipient's rent; and
- c. Market rehab unit.

The first two program types are portable, meaning the benefit moves with the recipient. The market rehab form stays with the housing facility.

2. Section 8 assistance has a feature that is superior to the relocation rent supplement in that it is not limited to 42 months, but continues as long as the recipient household is income eligible. The district office should make every effort to relocate existing Section 8 recipients to units in which their Section 8 benefits will continue. If a normal relocation rent supplement is

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paid, the local housing agency may consider this income, and disqualify the displaced household from eligibility for Section 8. It may be difficult to reenter the program, as there is usually a long waiting list. The district office should closely coordinate with the administering local housing agency.

B. Replacement housing payment computation. In order to transfer Section 8 benefits the recipient must relocate to a decent, safe and sanitary unit in which the owner agrees to participate in this program. Local housing agencies generally maintain current lists of participating owners and properties.

The criteria below will apply, corresponding to the type of Section 8 program the displacee is receiving:

1. For the certificate program, rent must be less than the ceiling set as fair market rent in the HUD schedule for the local area. Housing agencies will provide a copy of the current HUD established local schedule.

2. For a recipient in the voucher program Section 8 will pay up to the housing authority approved payment standard for the area. This is usually 80-100% of the fair market rent in subdivision 1 of this subsection. The recipient may pay the landlord the difference if actual rent is higher than the standard.

3. Market rehab Section 8 recipients may remain in Section 8 on concurrence of the local housing agency and the landlord.

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In determining the rent supplement amount, assume utility costs are the same as before relocation. An effort should be made to use comparable dwellings meeting Section 8 criteria. The standard of base monthly rent should be used, which is the lower of the following: existing rent before subsidy, market rent, or 30% of income. Under the Section 8 certificate program, rent paid should be the same as 30% of income. However, this will not always be the case in the Voucher program. An example is provided below:

<u>Example</u>	
<u>Rent Supplement – Section 8 Voucher Program</u>	
<u>FACTS BEFORE RELOCATION:</u>	
<u>Displacee household income</u>	<u>\$1,000/month</u>
<u>30% of income</u>	<u>\$ 300/month</u>
<u>Fair market rent and contract rent</u>	<u>\$ 550/month</u>
<u>Actual rent paid (Section 8 voucher = \$225)</u>	<u>\$ 325/month</u>
<u>AFTER RELOCATION:</u>	
<u>Displacee moves to comparable housing at \$550/month and retains Section 8 voucher paying \$225 to landlord. VDOT pays rent supplement on incremental difference between 30% of income (\$300) and actual replacement rent (\$325).</u>	
<u>(\$325 - \$300) X 42 months = \$1,050</u>	

C. Displacee options. The agent will inform the displacee of the replacement housing payment, both with and without Section 8 participation and advise of the following options:

1. Accept VDOT conventional rent supplement, which is limited to 42 months, and may disqualify the displacee for Section 8 in the future.

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2. Receive down payment subsidy of \$5,250 to assist in purchase of a replacement dwelling.

or

3. Retain Section 8. VDOT will pay rent supplement only to the extent of any difference between Section 8 subsidy and base monthly rent (as in above example). In most cases, the VDOT payment will be \$0. Tenants should be encouraged to accept this option if they plan to continue to rent and have no prospects of significant increase of income.

D. Tenant not on Section 8 before displacement. Determine rent supplement based on comparable unsubsidized housing, and the lesser of existing rent, market rent or 30% of income. This is a conventional rent supplement situation. If the tenant moves to Section 8 housing as a replacement, recalculate based on the net increase (if any) in monthly housing cost to the displacee after applying the Section 8 subsidy.

PART X.

MOBILE HOMES.

24 VAC 30-41-590. General.

A. Mobile homes have special legal and physical characteristics as opposed to conventional housing types. Mobile home occupants are entitled to the same relocation benefits as apply to all other displacees. However, certain policy adjustments and special benefit determination methods need to be employed because of the following unique characteristics:

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1. Eligibility; personalty vs. realty. A mobile home may have legal status as either real estate or personalty depending on factors such as the permanency of its fixture to the ground, its condition, and the intention of the owner in placing the mobile home on its present location.

An initial presumption should be made that a mobile home located on proposed right of way is personalty, and that the present owner will retain ownership and move the mobile home from the right of way. However, in some cases it will be clear that the unit is part of the real estate. For instance, the mobile home that is on a concrete foundation with basement and is on a professionally landscaped site would be considered real estate. In many cases the distinction is not clear. Legal advice may be secured from the assistant attorney general. Also, the district manager should monitor mobile home personalty/realty determinations to assure that they are made on a fair and consistent basis.

A mobile home determined to be real estate will be acquired and the occupant, if the owner, will be provided relocation benefits as an owner-occupant-displacee.

A mobile home considered as personalty and not real estate may be acquired and relocation benefits provided as an owner occupant under the following circumstances:

- a. The structural condition of the mobile home is such that it cannot be moved without substantial damage or unreasonable cost;
- b. The mobile home itself is not and cannot economically be made a decent, safe and sanitary dwelling;

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c. The mobile home cannot be relocated because there is no available comparable replacement site; or

d. The mobile home cannot be relocated because it does not meet mobile home park entrance requirements.

The determination as to whether to acquire an owner-occupied mobile home considered to be personalty should be made promptly after the first relocation contact has been made with the occupant. In making this determination, consideration must be given to whether the mobile home itself is not a decent, safe and sanitary unit because of its physical condition or its size. Under the procedures outlined in this section, it is not intended that an offer be made by VDOT to acquire a mobile home simply because of required utility deficiencies such as hot and cold running water and septic system. Considering the above, if it is determined by the district manager that VDOT has an obligation to offer to acquire the mobile home, the relocation agent is to contact several reputable mobile home dealers in the area to establish the amount that the mobile home would bring if offered for sale on the open market (salvage value or trade-in value, whichever is higher, shall be used when computing the price differential amount). Once this value is established and approved by the district manager, the approved amount will be used for comparison against the amount established as necessary for the displacee to purchase and relocate into comparable decent, safe and sanitary replacement facility. Upon approval of the maximum replacement housing payment, an offer is to be made for the purchase of the mobile home. Simultaneously, the displacee will be

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advised of the approved maximum replacement housing payment and the basis for establishing that amount. In the event the displacee refuses VDOT's offer, the district files are to be so documented and no further attempt made to acquire the mobile home. This being the case, the mobile home occupant is to be advised of the Replacement Housing Payment which is the difference between the established value of the mobile home and that amount necessary to acquire a comparable decent, safe and sanitary facility as computed above. Under these conditions the cost to move the mobile home is not an eligible expense.

If VDOT's offer to acquire the mobile home is accepted, the district must have the owner execute an agreement of sale. Upon delivery of the check to the owner, the district will obtain title to the mobile home, a bill of sale, an affidavit, or other proof of ownership. Upon relocation of the occupants, the disposal of the mobile home will be handled in the same manner as other acquired buildings.

2. Owner/tenancy status; mobile home and site. A characteristic unique to the mobile home payment computation is that there is often a divided ownership of the dwelling unit and its site. A mobile home occupant may own the dwelling but rent the site. Conversely, an occupant may own the site and rent the dwelling unit. Relocation benefits will conform to this feature by treating the site and the dwelling separately for purposes of determining replacement housing benefits. This is discussed more fully in 24 VAC 30-41-630.

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24 VAC 30-41-600. Mobile home park displacement.

The proposed right of way may include a portion of a mobile home park. VDOT will determine whether a sufficient portion of the park is taken to cause the owner-operator of such park to discontinue business because of not having an economic remainder to conduct operations. If the remainder is not an economic unit as a mobile home park, all occupants of mobile home units will be considered displaced persons eligible for appropriate relocation benefits, whether or not the residue on which any of the mobile homes are located is acquired by VDOT. The owner-operator may qualify for benefits as a business displacee, as well a residential displacee, if the owner-operator resides in a unit on the property.

24 VAC 30-41-610. Moving expenses.

A. A nonoccupant owner of a rented mobile home can be paid for actual, reasonable cost of moving the mobile home or other personal property, or both, under provisions of 24 VAC 30-41-210.

If a displaced mobile home owner files a claim for actual moving expenses for moving the mobile home to a replacement site, the reasonable cost of disassembling, moving and reassembling attached items such as porches, decks, skirting and awnings, anchoring of the unit and utility "hook-up" charges are reimbursable. The cost of repairs or modifications to enable the unit to be moved to a replacement site may be paid. VDOT must determine in advance that it is necessary and practical to do so. Payment will be limited to the reasonable costs of moving the mobile home and making necessary repairs or modifications.

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B. Nonreturnable entrance fees are reimbursable as part of actual cost moving expenses to an owner- or tenant-occupant, unless comparable mobile home parks are available which do not require entrance fees.

C. If the mobile home is not moved, the owner- or tenant-occupant may be paid for moving personal property in accordance with the moving expense schedule referred to in 24 VAC 30-41-220, or actual reasonable expenses in accordance with 24 VAC 30-41-210.

D. If the owner is reimbursed for the cost of moving the mobile home under these procedures, the owner is not eligible to receive a replacement housing payment, or rent supplement to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for a rent or purchase supplement to enable the displacee to secure a replacement site, as discussed in 24 VAC 30-41-630.

24 VAC 30-41-620. Replacement housing payments; general.

A. The ownership or tenancy of the mobile home, not the land on which it is located, determines the occupant's status as an owner or a tenant. The length of ownership and occupancy of the mobile home on the mobile home site will determine the occupant's status as a 180-day or 90-day owner or tenant.

The mobile home must be occupied on the same site (or in the same mobile home park) for the requisite 90 or 180 days to make the occupant fully eligible for rent or purchase supplement benefits.

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B. After the above eligibility determinations are made, the replacement housing payment is computed in two parts:

1. If the mobile home is being acquired, the replacement housing, or rent supplement payment is computed for the mobile home unit in accordance with the same procedures for any other dwelling unit.

2. The replacement housing or rent supplement payment is computed separately for the mobile home site in accordance with normal procedures. The payment amount is limited to the maximums according to the displacee's ownership or tenancy of the land.

The sum of the two parts computed above cannot exceed the maximum limitation of the \$5,250 for 90-day owner and tenant-occupants or \$22,500 for 180-day owner-occupants, unless last resort housing provisions in accordance with Part XI (24 VAC 30-41-650 et seq.) are applicable. Replacement housing and rent supplement offers and payments will be computed in accordance with Parts VIII (24 VAC 30-41-390 et seq.) and IX (24 VAC 30-41-520 et seq.) of this chapter. The offer will set the maximum limit of the supplemental payment.

When determining the purchase supplement payment for an owner-occupant-displacee from a mobile home, the cost of a comparable is the reasonable cost of a comparable mobile home, including the site. When a comparable mobile home is not available, the supplement may be determined using a conventional dwelling.

If a mobile home requires repairs or modifications to permit its relocation to another site and the district office determines that it would be practical to make the repairs or modifications, the

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cost of a comparable dwelling is the value of the displacee's mobile home plus the cost to make the necessary repairs or modifications.

24 VAC 30-41-630. Replacement housing payments; 180-day owner-occupant.

A. General. A displaced owner of a mobile home who has occupied the home and site for at least 180 days is eligible for the following as a replacement housing benefit:

1. The additional cost necessary to purchase replacement housing as specified in [~~subdivisions 2, 3, 4, and 5~~] [subsections B, C, D, and E] of this [~~subsection~~]-[section], and in accordance with the provisions of Part VIII (24 VAC 30-41-390 et seq.) of this chapter;
2. Compensation for the loss of favorable financing on the existing mortgage in the financing of such replacement housing, under the provisions of 24 VAC 30-41-500; and
3. An amount to reimburse the owner for incidental expenses incident to the purchase of such replacement housing in accordance with the provisions of 24 VAC 30-41-510.

A displaced owner-occupant of a mobile home eligible for a replacement housing payment as shown above who elects to rent is eligible for a rental replacement housing payment, not to exceed \$5,250, in accordance with 24 VAC 30-41-510.

B. Acquisition of mobile home and site from owner-occupant.

1. The purchase supplement payment will be an amount, if any, which when added to the amount for which VDOT acquired the mobile home and site equals the lesser of:

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a. The amount the owner is required to pay for a decent, safe and sanitary replacement mobile home and site; or

b. The amount determined by the district office as necessary to purchase a comparable mobile home and site in accordance with the provisions of 24 VAC 30-41-430.

2. Rental replacement housing payment. If the owner elects to rent, the rent supplement will be determined by subtracting 42 times the economic rent of the mobile home and site from the lesser of:

a. The amount determined by the district office necessary to rent a comparable mobile home and site for a period of 42 months; or

b. Forty-two times the monthly rent paid for the replacement mobile home and site.

C. Acquisition of site only - owner-occupant retains mobile home.

1. Upon acquisition of the site but not the home situated upon the site and the mobile home is required to be moved, the replacement housing payment will be the amount, if any, which when added to the amount for which VDOT acquired the mobile home site equals the lesser of:

a. The amount the owner is required to pay for a comparable site; or

b. The amount determined by the district office as necessary to purchase a comparable mobile home site.

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2. If the owner elects to rent, the rent supplement shall be determined by subtracting 42 times the economic rent of the mobile home site from the lesser of:

a. The amount determined as necessary to rent a comparable mobile home site for 42 months; or

b. Forty-two times the monthly rent paid at the replacement mobile home site.

D. Acquisition of mobile home only - owner-occupant rents site.

1. The replacement housing payment is to be the amount, if any, which when added to the amount for which VDOT acquired the mobile home equals the lesser of:

a. The actual amount the owner is required to pay for a replacement dwelling; or

b. The amount determined as necessary to purchase a comparable mobile home, plus the difference in the amount determined by the district office as necessary to rent a comparable mobile home site for a period of 42 months and 42 times the rent being paid on the site acquired.

The entire computed amount may be applied toward the purchase of a comparable mobile home site, if so desired.

2. If the owner elects to rent a replacement mobile home, the rent supplement payment shall be determined by subtracting 42 times the economic rent of the mobile home and the actual rent of the site from the lesser of:

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a. The amount determined by the district office as necessary to rent a comparable mobile home and site for 42 months; or

b. Forty-two times the monthly rent paid for the replacement dwelling.

E. Acquisition of rental site only - mobile home not acquired. When the site is acquired but not the mobile home, which must be moved, the owner-occupant of the mobile home is eligible for up to \$5,250 as a rent supplement for a comparable replacement site. This rent supplement payment shall be the difference determined by subtracting 42 times the rent on the site being acquired from the lesser of:

1. The amount determined as necessary to rent a comparable home site for 42 months; or

2. Forty-two times the monthly rent paid for the replacement site.

The entire computed amount may be applied toward the down payment and incidental expenses on a comparable home site.

24 VAC 30-41-640. Replacement housing payment to tenants of 90 days or more and owner occupants for 90-179 days.

A displaced owner or tenant of a mobile home or site, or both, under this category can receive a replacement housing payment not to exceed \$5,250 (except under last resort housing) to rent a comparable decent, safe and sanitary mobile home or site, or both, or make a down payment on either or both computed as follows:

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1. The rental replacement housing payment is to be determined in accordance with the provisions of 24 VAC 30-41-530.
2. If a purchase decision is made, the entire computed rental payment may be applied towards the purchase, including related incidental expenses for a replacement mobile home, site, or both.
3. An owner-occupant under this category is entitled to the same replacement housing payments as the tenant-occupant, except economic rent of the acquired mobile home and site will be used.

PART XI.

LAST RESORT HOUSING.

24 VAC 30-41-650. General.

A. No displaced persons will be required to move until a comparable replacement dwelling is made available within their financial means. Comparable replacement housing may not be available on the private market or does not meet specific requirements or special needs of a particular displaced family. Also, housing may be available on the market, but the cost exceeds the benefit limits for tenants and owners of \$5,250 and \$22,500, respectively. If housing is not available to a displacee and the transportation project would thereby be prevented from proceeding in a timely manner, VDOT is authorized to take a broad range of measures to make housing available. These measures, which are outside normal relocation benefit limits, are called collectively last resort housing.

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B. It is the responsibility of VDOT to provide a replacement dwelling, which enables the displacee to relocate to the same ownership or tenancy status as prior to displacement. The displacee may voluntarily relocate to a different status. The district office may also provide a dwelling, which changes a status of the displacee with their concurrence, if a comparable replacement dwelling of the same status is not available.

A more complete discussion of last resort housing appears in the "Guidance Document for Determination of Certain Financial Benefits for Displacees" (~~to become effective the same date as this regulation~~) [effective November 21, 2001]).

24 VAC 30-41-660. Utilization of last resort housing.

Last resort housing is applicable when:

1. Comparable replacement housing is not available on the housing market; or
2. Comparable replacement housing is available, but:
 - a. The computed replacement housing payment exceeds the \$22,500 limitation; or
 - b. The computed rent supplement exceeds the \$5,250 limitation.
3. Comparable housing is not available within the financial means of a displaced person who is ineligible to receive a replacement housing payment because of failure to meet length-of-occupancy requirements and when comparable replacement rental housing is not available at rental rates within 30% of the person's gross monthly household income.

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24 VAC 30-41-670. Last resort housing plan.

If the analysis of the characteristics and needs of a displaced family indicates that the provision of last resort housing may be necessary, the district office will develop a plan to determine the method of producing comparable replacement housing. In the development of the plan, innovative approaches and methods for the provision and financing of replacement housing will be considered. The plan shall include:

1. Consideration of requirements of local zoning and building codes with reference to methods proposed to provide comparable housing;
2. Discussion of how, when and where housing will be provided;
3. Consideration of environmental suitability of the location of the proposed housing, including consideration of environmental justice;
4. How housing will be financed and the amount of funds to be used for such housing from all funding agencies and private sources;
5. Prices for the housing to be rented or sold is within the financial means of the families and individuals to be displaced;
6. Arrangements for maintaining rent levels appropriate for the persons to be relocated;
7. Arrangements for rental housing management;
8. Disposition of the proceeds from rental, sale, or resale of such housing;

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9. How the construction will be monitored; and

10. Any other comments pertinent to providing replacement housing.

The central office relocation section may perform the approval of Last Resort Housing Plans when the computation exceeds an amount determined by the director of the right of way and utilities division.

Last resort housing cases are often identified during the process of providing relocation services and benefits. They may arise from unique circumstances that affect a displaced household. The relocation plan in these cases will consist of a summary of the specific relocation problems, a discussion of methods considered and a detailed statement of the method, estimated cost and time required to implement the recommended solution. The method will be implemented on approval of the district manager or an assistant district manager.

24 VAC 30-41-680. Last resort housing alternative solutions.

A. VDOT has broad latitude in the methods used and the manner in which it provides housing of last resort. After consideration of all practical options, a method should be selected which provides comparable housing at the most reasonable cost, within the time constraints of roadway project scheduling and urgency of the displacee's need. Methods for providing this housing include, but are not limited to:

1. Making an offer and payment greater than \$22,500 for a displaced owner or \$5,250 for a displaced tenant;

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2. Rehabilitation, modifications or additions to an existing replacement dwelling to accommodate displacee needs;

3. The construction of a new replacement dwelling;

4. The relocation and, if necessary, rehabilitation of a replacement dwelling;

5. The purchase of land or a replacement dwelling, or both, by VDOT and subsequent sale, lease to, or exchange with a displaced person;

6. Acting as mortgagee in financing a displacee's purchase of housing; and

7. The provision of features such as entrance ramps, wide doors, etc., which will make a dwelling accessible to a handicapped displacee.

B. Under special circumstances, consistent with the definition of a comparable replacement dwelling, consideration will be given to providing replacement housing with space and physical characteristics different from those in the displacement dwelling. This may include upgraded, but smaller replacement housing that is decent, safe and sanitary and adequate to accommodate families displaced from marginal or substandard housing. In no event, however, will a displaced person be required to move into a dwelling that is not functionally equivalent to the displacement dwelling.

24 VAC 30-41-690. Cooperative agreements.

VDOT may enter into agreements with any other federal, state or local agency or contract with any individual, firm, corporation or nonprofit association for services in connection with these

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activities. It is expected that VDOT, to the greatest extent practicable, will utilize the services of federal, state or local housing agencies or other agencies having experience in the administration or conduct of similar housing assistance activities.

24 VAC 30-41-700. Consequential displacement.

Any person displaced because of the acquisition of real property for a last resort housing project under VDOT's power of eminent domain (including amicable agreements under the threat of such power) is entitled to all eligible benefits under the relocation assistance provision. This provision is not applicable to an owner-occupant who voluntarily acts to sell the property to VDOT for last resort housing and owner certifies same in a statement that will be retained in VDOT files.

24 VAC 30-41-710. Last resort housing disbursements.

A. Rental assistance payments made to displacees who rent replacement housing under this section will be paid in annual installments directly to the displacee. However, when in the district manager's judgment, a direct payment or annual payments would not be prudent and in the public interest, other payment options will be arranged. Whenever special payment options are invoked, the file will be documented with the reasons for invoking these options.

B. Displacees may not be required to accept last resort housing in place of a rent supplement or a purchase supplement for which they may be eligible under normal program provisions. A displacee may choose to accept a conventional purchase or rental supplement in lieu of a last

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resort housing solution. This is conditioned that all eligibility criteria are met, including rental or purchase and occupancy of a decent, safe and sanitary dwelling.

C. Displacees who receive a housing or financial payment under last resort housing will be required to certify that they accept the housing or benefit in lieu of the rent supplement or purchase supplement for which they would otherwise be eligible.

PART XII.

RECORDS, REPORTS AND AUDITS.

24 VAC 30-41-720. Relocation records.

The district office will assemble and maintain records on project, parcel and case levels, showing the basis for major decisions and benefit determinations. Copies of all official forms and letters to and from displacees will be retained.

The following specific records will be retained:

1. State and Federal Project and Parcel identification.
2. Date of initiation of negotiations for project.
3. Names and addresses of displaced persons and their complete original and new addresses and telephone numbers (Library Forms RW-69A and 69B).
4. Personal contacts made with each displaced person, including for each:
 - a. Date of notification of availability of relocation payments and services (Library Forms RW-69A, RW-59 (1), (2), and (3) and RW-68A);

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b. Name of the relocation agent offering or providing the relocation assistance (Library Forms RW-69A and RW-68A);

c. Whether the offer of assistance in locating or obtaining replacement housing was declined or accepted and the name of the individual accepting or declining the offer (Library Form RW-69B);

d. Date and substance of all relocation contacts (Library Form RW-68A);

e. Date on which the relocated person was required to move from the property acquired for the project (included in the confirmation or acceptance letter in the parcel file);

f. Date on which actual relocation occurred (Library Forms RW-67A or B); and

g. Type of tenure before and after relocation (Library Forms RW-69A and 69B).

5. For displacements from dwellings:

a. Number in family (Library Form RW-69A);

b. Type of property (Library Form RW-69A);

c. Monthly rental (Library Form RW-69A); and

d. Number of rooms occupied (Library Form RW-69A).

6. For relocated businesses, farms and nonprofit organizations:

a. Type of business (Library Form RW-69A);

b. Whether continued or terminated (Parcel File); and

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c. If relocated, approximate distance moved (Library Form RW-67B).

24 VAC 30-41-730. Moving expense records.

The district office will maintain records containing the following information regarding moving expense payments for each displacee:

1. The date the removal of personal property was accomplished (Library Form RW-67A or B);
2. The location from which and to which the personal property was moved (Library Forms RW-69A, RW-67A or RW-67B);
3. If the personal property was stored temporarily, the location where the property was stored, the duration of such storage and justification for the storage and storage charges. (Library Form RW-67A or B);
4. Itemized statement of the cost incurred supported by receipted bills or other evidence of expense (Library Form RW-67A or B);
5. Amount of reimbursement claimed, amount allowed and an explanation of any difference (Library Form RW-67A or B);
6. Data supporting any determination that a business cannot be relocated without a substantial loss of its existing patronage and that it is not part of a commercial enterprise having more than three establishments not being acquired (Parcel File); and
7. When an in lieu of payment is made to a business, nonprofit organization, or farm operation, data showing how the payment was computed (Parcel File).

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24 VAC 30-41-740. Replacement housing payment records.

The district office shall maintain records containing the following information regarding replacement-housing payments for each displacee:

1. The date of receipt of each application for such payment (Library Forms RW-65A(1), RW-65B[(1)] and RW-65C(1));
2. The date on which each payment was made or the application rejected (Parcel File);
3. Supporting data showing how the amount of the supplemental payment to which the applicant is entitled was calculated (Library Form RW-62A or RW-62B);
4. A copy of the closing statement to support when replacement housing is purchased (Parcel File);
5. A copy of the Truth in Lending Statement and other data, including computations to support the increased interest payment (Parcel File and Library Form RW-66);
6. The individual responsible for determining the amount of the replacement housing payment shall place in the file a signed and dated statement setting forth:
 - a. The amount of the replacement housing payment (Library Forms RW-62A and B);
 - b. An understanding that the determined amount is to be used in connection with a federal-aid highway project (Library Forms RW-62A and B);

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c. There is no direct or indirect present or contemplated personal interest in this transaction nor will any benefit be derived from the replacement housing payment (Library Forms RW-62A and B); and

7. A statement that the relocated person has been relocated into decent, safe and sanitary replacement housing (Library Form RW-69B).

24 VAC 30-41-750. Reports.

VDOT will submit the following reports as scheduled or requested by the Federal Highway Administration:

1. Annual Federal Uniform Act Statistical Report. An annual Uniform Act Statistical Report will be submitted for the period ending September 30 each year. The report shall be prepared by the central office relocation section and submitted to the Federal Highway Administration.

2. Periodic Report of Residential Moving Cost Schedules. Periodically, the district office will be requested to initiate a survey to determine the adequacy of the current residential moving cost schedules.

Local, reputable movers shall be contacted in order to determine their charges for moving unfurnished dwellings and furnished dwellings.

Requests to the districts to provide information will be issued by the central office as necessary.

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24 VAC 30-41-760. Relocation audits.

A. In order to ensure consistency in the implementation of the relocation program, relocation audits will be performed on a periodic basis by the central office relocation section. The projects selected for audit should include residential occupants (both owners and tenants) and businesses.

B. Audits will include review of district and central office files and interviews with some of the displacees. Upon completion of the audit, a written report detailing the audit findings will be provided to the appropriate district right of way and utilities manager for review. A meeting will be held with the central office relocation auditor or auditors and the district manager to discuss details and recommendations.

FORMS

RW-59(1) (Form letter for moving families w/certification of citizenship/legal residence) (rev. 11/98).

RW-59(2) (Form letter for moving personal property w/certification of citizenship/legal residence) (rev. 8/99).

RW-59(3) (Form letter for moving businesses, farms, and nonprofit organizations w/certification of citizenship/legal residence) [~~(rev. 8/99)~~] [(rev 8/00)].

Occupancy Agreement (no form number) (rev. 8/99).

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RW-60A, Moving Cost Application (Families and Individual/Personal Property only) (rev. 10/00).

RW-60B, Moving Cost Application (Businesses, Farms, and Nonprofit Organizations) (rev. 8/00).

RW-62C, Occupancy Affidavit (Tenants) (rev. 8/99).

RW[-]-65A(1), Application for Purchase Replacement Housing Payment (Owner-occupant for 180 days or more) (rev. 4/01).

RW-65B[~~(4)~~], Application for Purchase Replacement Housing Payment (Owner-occupant for less than 180 days but not less than 90 days/Tenant-occupant of not less than 90 days) (rev. 4/01).

RW-65C [~~(4)~~] [(1)], Application for Rental Replacement Housing Payment (rev. 11/98).

RW-67A, Moving Cost Payment Claim (Families and Individuals/Personal Property only) (rev. 11/98).

RW-67B, Moving Cost Payment Claim (Businesses, Farms, and Nonprofit Organizations) (rev. 8/99).

CERTIFICATION

I certify that this regulation is full, true, and correctly dated.

*Deputy Commissioner
Claude D. Garver, Jr.*

Date