

A scenic view of a rural road with a utility pole, trees, and a house in the background. The road is paved and has a yellow double line. The utility pole is tall and has several cross-arms. The house is a simple, single-story structure with a gabled roof. The background is a dense forest of trees.

# What Happens When Your Property Is Needed For A Transportation Facility

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# The Georgia Department Of Transportation Needs Your Help

The Georgia Department of Transportation must acquire land to improve its transportation system. Many of our transportation systems which were built years ago have outlived their intended use. If you own property near an existing or proposed transportation facility, you will be interested in the procedure which the Georgia Department of Transportation follows in acquiring the necessary right of way.

This brochure tells why your property may be needed, what your rights are as a property owner and provides answers to some of the questions that will come to mind if your property is needed for a transportation facility. The Brochure is not all inclusive, but rather is intended to serve as an outline. For more detailed information, please consult the Georgia DOT representative assigned for the acquisition of your property.

## What Determines Why My Property Is Needed?

Many factors are critically analyzed in locating and designing modern transportation systems. The element of need is the first consideration. For many years, as an example, roads were improved and hard-surfaced to meet the needs of the new automobile, people were willing to pay almost any price to get the roads that they wanted and needed. During this time, economics was the main consideration and the best road was almost always the shortest distance between two points.

In more recent years, as the Interstate System and other major limited-access highways were built, the tremendous impact of these modern, safe, efficient and really super-highways came to be felt on the entire society. Planners and designers began to be more concerned with aesthetics and safety than a better location.

Now we have turned completely around. No longer is money the overriding factor. It is still a very important consideration, for we can build nothing without it, but it is no longer the most important, and it should not be. Now roads must do more than just transport people, goods and services. They must be planned and designed to blend with our communities. They must help accomplish other desirable social goals besides just providing a physical transportation artery.

An example of this is joint-use of the transportation facility right of way, such as the development of new parks, or enlarging, enlivening and increasing access and use of existing park facilities.

Another example of joint-use is the placing of two or more transportation facilities in the same corridor, such as highways and rapid mass transit facilities.

Both of these examples are being planned for new highway and transportation facilities in Georgia.

In the last few years, national figures show the increased environmental controls, both in design and construction have increased costs. But the changes have been worth the extra cost in the savings of additional lives and the enhancement of the environment through which these facilities pass.

## Does The Department Have The Right To Acquire My Property?

The Constitution of Georgia and the Constitution of the United States provide that private property may be acquired for public purposes and that just compensation be paid for all property so acquired.

## How Far In Advance Will I Know That My Property Is Needed?

The Department will advise you well in advance of actual negotiations. This is done through public hearings, meetings and personal visits. **DO NOT ACT ON RUMORS.** Be sure you have the facts from the Department before building or making major changes. The mere fact that a survey is being made on or near your property does not mean that the final location of a proposed transportation facility will cross your lands.

## What Will I Be Paid For My Property?

You are entitled to receive fair market value for your property. Market value is defined as the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer. This value is determined from appraisals prepared by highly qualified appraisers. You or your designated representative will be given an opportunity to accompany the appraiser during his/her inspection of your property.

All appraisals are reviewed by experienced, qualified review appraisers. The appraisals are checked for accuracy to make certain that no items of allowable value have been overlooked or omitted. You will be offered the full amount of the review appraiser's estimate of fair market value. There will be no attempt to buy your property at a lesser figure. This offer will be made to you in writing and will establish the Department's legal date of initiation of negotiations to purchase your property.

If your entire property is needed, you will be offered the fair market value of the entire property. If only a part of your property is needed, you will be offered the fair market value of that part to be acquired plus any damages accruing to the remaining property. Should the remainder be classified by the Department as an uneconomic remnant the Department will offer to purchase the remainder.



# Some Advantages Of Selling Property To The Georgia Department Of Transportation

1. Cash Sale
2. No real estate commission to pay
3. Reimbursement will be made for:
  - a. Recording and/or cancellation fees, and similar expenses incidental to the conveyance of the acquired property to the Department.
  - b. Penalty costs for pre-payment of any pre-existing recorded mortgage entered into in good faith encumbering such real property.
  - c. A pro-rated portion, on a calendar year basis, of all real estate property taxes which have been paid or which are due and payable at the time of acquisition.
  - d. Reasonable survey fees to reestablish existing property corner pins that were removed as a result of the acquisition or construction.
4. The property will be evaluated thoroughly, completely and accurately by expert appraisers.
5. The owners do not pay legal or appraisal fees unless they hire their own attorney or appraiser.



# Who Prepares The Deed And Handles The Closing?

The closing will be similar to that required in any real estate transfer. The Department prepares the deed. There will be no charges for preparing the deed.

Naturally, it will be necessary to satisfy all outstanding loans or liens on the property. The Department representative will be glad to try to bring together all parties who have any interest in the property. When an agreement is reached, the Department will deliver payment upon satisfaction of any outstanding encumbrances and upon execution of the deed.

# What Happens If An Agreement To Sell Cannot Be Reached?

Since the Department must acquire the property in order to construct the proposed facility, Georgia law provides that the Department can initiate a condemnation suit under eminent domain proceedings. This suit would be filed in the superior court of the county where the property is located. One of the following methods will be employed:

## **Declaration of Taking**

This is the most commonly used method. Upon filing the petition, the Department deposits its estimate of just compensation. At this time title passes to the Department.

## **Special Master**

Under this method the Judge of the superior court appoints an attorney to hear the evidence and make an award.

## **Three Assessors**

Under this method one assessor is selected by the owner, one by the Department and the third by agreement of the first two, or if agreement cannot be reached, the third is appointed by the Judge of the Superior Court. These three review the facts and make an award based on their findings.



## When Must I Vacate My Property?

The occupants of property required for rights of way will not be required to vacate prior to three months from the date they were first and formally contacted in regard to the purchase of the occupied property nor less than two months from the date of its acquisition.

It is the policy of the Department that no person will be displaced unless and until comparable replacement housing is available.

## May I Move Prior To Negotiations To Acquire My Property?

It is your right to move when you wish. In the event you desire to move prior to negotiations for the parcel (property you occupy), your **eligibility for Relocation Assistance Benefits could be forfeited.**

## May I Keep My Home Or Other Buildings?

There are two procedures by which the owner may retain the home or other buildings located on or partially on the property being acquired as right of way. During negotiations an agreement will be reached with the owner in regard to such buildings and will be spelled out in the agreement to sell. These procedures are as follows:

1. The owner may wish to retain the buildings at a predetermined retention value set by the Department and make arrangements to have the buildings moved to a new location. Under this procedure, the Department will pay the owner the appraised value less salvage value as determined by the Department. The owner will be required to post a cash bond until the buildings have been removed. Once the buildings have been removed the cash bond will be refunded.

2. Improvements not retained under paragraph one (1) are sold by sealed bids. An owner will be furnished a bid proposal by a Department representative when the buildings are offered for sale. In some instances, buildings located in the right of way of a project may be advertised for sale with the understanding that they will be delivered to the purchaser when and if they are acquired by the Department. **Offerings for sale prior to acquisition are sometimes necessary in order to coordinate the disposal of buildings for an entire project, expedite demolition or removal after the buildings are acquired and vacated, and minimize vandalism.**

## Suppose I Need Assistance In Relocating?

Any person, family, business or farm displaced shall be offered relocation assistance services for the purpose of locating a comparable replacement property. Relocation services are provided by qualified personnel employed by the Department. It is their goal and desire to be of service and assist in a successful relocation.

A representative of the Department will contact all affected persons and explain the services and payments available. You will be provided current lists of comparable replacement housing which will be within the individual's financial means, available on the open market and "decent, safe and sanitary".

The Department's representative is familiar with the services provided by other public and private agencies in the community. Please make any needs known to the Department's representative; if this representative cannot personally help with specific problems, perhaps the representative knows someone who can.

The Department will furnish information concerning local housing ordinances, open housing, building codes, social services, data for such costs as security deposits, closing costs, typical down payments, interest rates and terms, VA and FHA insured loan requirements, real property taxes, consumer education literature on housing and various other subjects.

## An Illegal Alien Is Not Eligible For Relocation Assistance Payments & Benefits

Public Law 105-117 provides that aliens not lawfully present in the United States are not eligible to receive relocation assistance payments and/or any other benefits that are commonly provided to displacees. This law requires that persons seeking relocation payments or assistance under the Uniform Act certify, as a condition of eligibility, that they are citizens or are otherwise lawfully present in the United States.

If it is discovered that some of the occupants of the household and/or business are illegal aliens, then any payments or benefits the family or business would have received if all were legally present in the U. S. , would only be made payable to the remaining eligible family occupants or business members based on a pro rata share basis of each member's eligible share. The shares of those that are illegal aliens cannot be paid to any of the remaining eligible displacees. Under law, the Department may deny eligibility only if:

- (1) a person fails to provide the required certification; or
- (2) the agency determines that a person's certification is invalid, based on a fair and nondiscriminatory review of an alien's documentation or other information that the agency considers reliable and appropriate; and
- (3) the agency concludes that denial would not result in "exceptional and extremely unusual hardship" situations.

## Will I Have To Pay Moving Costs To Have My Furniture And Other Personal Property Moved?

If you are displaced, you are entitled to be reimbursed, subject to certain limitations and requirements, for your reasonable and necessary moving costs. These costs may include the costs to dismantle, insure, disconnect, transport, crate, unload, load, reconnect and modify personal property. Also service charges necessary to disconnect and reconnect utilities are reimbursable.

This does not include any costs which you may incur to add to, improve, alter, or make physical changes to the replacement structure. **Prior to payment for the removal and reinstallation of your personalty, the owner and the Department must agree in writing that the property is personalty and that the Department is released from any payment for the property as realty.**

Moving costs may include temporary storage of personal property, not to exceed twelve (12) months, **if the Department determines storage is necessary. Only the State Right of Way Administrator can authorize storage and temporary lodging.**

In addition, costs of transportation, temporary lodging and meals may be eligible if it is **predetermined** by the Department that such costs are necessary and reasonable. **THESE COSTS ARE ELIGIBLE ONLY IF YOU ELECT TO BE PAID ON THE ACTUAL COST BASIS.**

In hardship cases, arrangements may be made for payment of moving expenses in advance, but only after the property on which you reside has been acquired by the Department.

## Persons Eligible For Moving Payments

To be eligible for moving payments the property must be acquired by the Department and the person must have been:

1. In legal occupancy at the time the owner is given a written offer for the property to be acquired; or
2. In legal occupancy at the time the property is acquired by the Department.



# Moving Payments -Individuals And Families

Eligible individuals or families may be reimbursed for their reasonable and necessary moving costs by one of the three methods identified as Method “A”, Method “B”, or Method “C”. The method preferred must be selected before the move and indicated on the form entitled “Application for Moving Costs”. Such costs are not applicable to items classified by the Department as real property. **You cannot combine any parts of the three methods.**

There is no limitation on the distance you may move. However, reimbursement for transportation charges is limited to a distance of 50 miles, except with prior approval by the Department. Such exceptions will only be allowed when the relocation cannot be accomplished within the 50 mile area and then only to the nearest comparable and available site. Claims must be filed with the Department within eighteen (18) months of the date a tenant moves, owners have eighteen (18) months from the date of move or date of final payment for the acquired dwelling, whichever is later.

Occupants of mobile homes are only eligible for payment under Methods “B” or “C” when the mobile home itself is classified as personal property.

## Method A -Fixed Moving Cost

An eligible individual or family may choose to be reimbursed a fixed amount as determined by the Department (Not Applicable for Mobile Homes). Determination of this amount is based upon the number of rooms having adequate furnishings. This amount includes a dislocation allowance to assist in utility reconnection charges.

## Method B -Actual Cost

By written agreement between the Department, the mover and you, a licensed mover and/or qualified performer of services may be chosen to move your personal property. After services have been completed, the mover will present to you an invoice, receipt, statement, or other acceptable documentation of moving costs which you will forward to the Department. The mover will be paid directly by the Department for all reasonable costs. It may be necessary for more than one mover to complete the move. If so, each must be approved by the Department prior to the move. Reconnection charges for utilities, telephones, TV cable, etc., will be reimbursed based on paid actual costs.

## Method C - Self Move

You may choose to move yourself and be reimbursed for actual reasonable expenses incurred, supported by paid receipted bills or other acceptable evidence of costs incurred. Such payments may **not** exceed the estimated **cost of moving commercially**, based on estimates secured by the Department **prior to moving**.

A claim form will be furnished to you, which **paid receipts** must be attached and submitted to the Department for payment. The Department’s representative will assist you in processing your claim. Reconnection charges for utilities, telephone, T.V. cable, etc. will also be reimbursed.



# Moving Payments-Businesses, Farm Operations, And Nonprofit Organizations

Eligible businesses, farms and nonprofit organizations may be reimbursed for their reasonable and necessary costs of removal, or by moving a reinstallation of personal property by selecting one of the three methods explained below. In hardship cases, arrangements may be made for payment of moving expenses in advance of moving, however, this will only be made after the occupied property has been acquired by the Department. The displaced business, farm or nonprofit organization must provide the Department seven (7) days advance notice of the approximate date of the start of the move or disposition of the personal property.

The expense of removal, reinstallation, reestablishment and modification of machinery, equipment, appliances and other items which have been considered as personalty, including reconnection of utilities to such items, which do not constitute an improvement to the replacement site, are eligible for reimbursement.

Prior to payment of any expenses for removal and reinstallation of such property, the owner and the Department shall agree in writing the property is personalty and the Department is released from any payment for the property as realty. The owners or operators must (Department personnel will assist if needed) prepare and execute a certified inventory of the items to be actually removed and reinstalled. This certified inventory must be prepared and attested to for all moves. If the items listed on the certified inventory deviate to a significant extent from the items actually removed and reinstalled, the amount previously agreed will be revised accordingly.

In addition to Method A- Self Move or Method B- Actual Cost (see below), the following **moving incidentals** will be reimbursed, based on receipted bills, if pre-approved by the Department and are considered reasonable and necessary:

- 1) licenses
- 2) permits
- 3) relettering of signs
- 4) replacing stationery on hand that is made obsolete may be reimbursed
- 5) connection to available nearby utilities from the right-of-way to improvements at the replacement site
- 6) professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site.) At the discretion of the Department a reasonable pre-approved hourly rate may be established
- 7) impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by the Department

The method desired must be selected prior to moving by executing a Department form entitled "Application for Moving Costs Benefits." Relocatees will be advised of the amount of estimate prior to signing. The Department's representative must be permitted to make reasonable and timely inspections of the personal property at both the acquired site and the replacement site and to monitor the move. Claims must be filed with the Department within eighteen (18) months of the date of move or date of final payment for the property, whichever is later.

## Method A -Self Move

If the relocatees want to take full responsibility for the entire move, they may choose to be reimbursed by Method A, known as the Self-Move Method.

The amount will be based on estimates prepared by the Department and/or qualified moving contractors. The relocatee may elect to submit to the Department paid receipted bills or other evidence of costs incurred to support the costs of the move. In no event will a payment be made in excess of what would have been paid for a move by a commercial mover.

## Method B -Actual Cost

An eligible relocatee may elect to be reimbursed by the Moving Contractor Method. The Department will secure at least two (2) estimates from licensed moving contractors and will establish payment based on these estimates. Upon completion of the removal and reinstallation the Department will make payment directly to the contractor.

## Alternate Payments In Addition To Method "A" Or "B"

Payment for losses of tangible personal property may be made when it is decided not to move such property. A payment of this type requires a bona fide effort to sell the item(s). Reimbursement will also be made for the reasonable expenses incurred to effect the sale.

Consult the Department's representative if you have personal property which may not be moved or which may be replaced at your new location.

## Reestablishment Costs

The owner of a displaced small business, farm, or nonprofit organization is entitled to receive a payment for actual necessary and reasonable expenses to reestablish at a new site.

This payment is limited to \$10,000.00 and will only be paid under Methods "A", "B" or actual direct losses of tangible personal property payments.

\*Small Business -is a 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. The income generated from the business must have been reported and filed with the IRS and the Georgia Revenue Department in order to be eligible to receive reimbursement of the eligible expenses associated with the reestablishment of the business.

When claiming this expense, the claimant will be required to submit certified copies of their current individual and business income tax returns to the Department for verification and documentation.

Sites occupied solely by outdoor advertising signs, displays or devices do not qualify as a business and are not eligible for the reestablishment expense.

“Economic Activity” is when the site is producing or is capable of producing an ongoing legal financial activity currently in operation or where there has been some kind of economic development produced at or by the residence or building within the last twenty four (24) months prior to the initiation of negotiation for the parcel. A detailed list of the charges that were or will be involved in the reestablishment of the business will be reviewed by the Department and all eligible costs that were actually incurred and paid will be reimbursed, but not to exceed the maximum amount allowed as stated above. These expenses include the following:

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. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting,
5. Advertisement of replacement location,
6. Estimated increased costs of operation during the first two (2) years at the replacement site for such items as: (a) lease or rental charges, (b) personal or real property taxes, (c) insurance premiums, and (d) utility charges, excluding impact fees,
7. Other items that the Department considers essential to the reestablishment of the business.

The following is a non-exclusive listing of reestablishment expenditures not considered to be reasonable, necessary or otherwise eligible:

1. Purchase or construction 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.
4. Payment to a part-time business in the home which does not contribute materially to the household income.
5. Sites occupied solely by outdoor advertising signs, displays or devices.

## Actual Reasonable Expenses In Searching For A Replacement Location

The owner of a displaced business, farm, or nonprofit organization may be reimbursed for the actual reasonable expenses in searching for a replacement location, not to exceed two thousand and five hundred dollars (\$2,500). Such expenses may include transportation expenses, meals, lodging away from home and the reasonable value of time actually spent in search, including the fees of real estate agents or real estate brokers.

(a) Receipted Bills - All expenses claimed, except the value of time actually spent in search, must be supported by receipted bills.

(b) Time Spent in Search - Payment for a person(s) time actually spent in search must be documented and the hourly wage rate must be reasonable. Also a certified statement of the dates and hours spent searching, including the places visited and the persons contacted, must accompany this claim.

## Method C - In Lieu Of “A” Or “B”

In lieu of payment under Methods “A” or “B” and if actual direct losses of tangible personal property are not desired, an owner of a discontinued or relocated business, farm or nonprofit organization may be eligible to receive a payment equal to the past two (2) tax years average annual net earnings.



Such payment shall not be less than one thousand dollars (\$1,000.00) nor more than twenty thousand dollars (\$20,000.00). A person whose sole business at the displacement site (single or multi family units) is the rental of such property will not be eligible for this payment.

For the owner of a business to be entitled to this payment, the Department 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 the business vacates or relocates from its displacement site.
- (2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings).
- (3) The business is **not part of a commercial enterprise having more than three other establishments** which are not being acquired by the Department, and which are under the same ownership and are engaged in the same or similar business activity.
- (4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.
- (5) The business is not operated at the displacement site solely for the purpose of renting the site to others.
- (6) The business contributed materially to the operator's income during the two (2) taxable years prior to the taxable year displacement occurs as follows:
  - a. had average annual gross receipts of at least \$5,000, or
  - b. had average annual net earnings of at least \$1,000, or
  - c. contributed at least 33 1/3 percent to the operator's average annual gross income from all sources.

For the owner of a displaced farm operation to be entitled to this payment, the Department must determine that:

- (1) The farm operation produces products or commodities in sufficient quantity to be capable of contributing materially (as defined in (6) above) to the operator's support.
- (2) The farm operator was required by the acquisition to discontinue his entire farm operation at the present location or required to relocate the entire farm operation.
- (3) In the case of a partial acquisition of land which was a farm operation before the acquisition; the payment may be made if it is determined that:
  - a. The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land, or
  - b. The partial acquisition caused a substantial change in the nature of the farm operation.

For a nonprofit organization to be eligible for this payment, the Department must determine that the nonprofit organization cannot be relocated without a substantial loss of its existing membership or clientele.



Any payment in excess of \$1,000.00 must be supported with financial statements for the two twelve-month periods prior to displacement. The amount to be used for any payment by the Department is the average of two (2) years annual gross revenues less administrative expenses.

#### **Payment Determination -Businesses And Farms**

The term "average annual net earnings" means one-half of any net earnings of the business or farm before Federal, State and local income taxes, during the two taxable years immediately preceding the taxable year in which the business is relocated. "Average annual net earnings" include any compensation paid by the business or farm to the owner, his spouse, or his dependents during the two-year period. Such earnings and compensation may be established by Federal income tax returns filed by the business or farm and its owner, his/her spouse, and their dependents during the two-year period. In the case of a corporate owner of a business or farm, earnings shall include any compensation paid to the spouse or dependent 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 dependent children shall be treated as one unit.

#### **A Business or Farm Less Than Two Years**

If the business or farm 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.

#### **Owner Must Provide Information**

For the owner of a business, farm, or nonprofit organization to be entitled to this payment, you must provide information to support the net earnings. City, County, State, or Federal Tax Returns or a certified financial statement prepared by a Certified Public Accountant (C.P.A.) for the tax years in question are the best source of this information and would be accepted, as evidence of earnings.

A representative of the Department will assist businesses, farm operations, nonprofit organizations and owners of other personal property in processing applications and claims.



## Replacement Housing Payments To Owners

Displaced owner-occupants of a dwelling may receive payments for the additional costs necessary to purchase comparable replacement housing, compensation for the loss of favorable financing of the existing mortgage in the financing of replacement housing and reimbursement for certain closing costs incidental to the purchase of replacement housing.

A “comparable dwelling” is one which, when compared with the dwelling being acquired, is (a) decent, safe and sanitary; (b) functionally equivalent with particular attention to the number of rooms and living space; (c) in an area not subjected to unreasonable adverse environmental conditions; (d) is not generally less desirable than the dwelling being acquired in regard to public utilities and public and commercial facilities; (e) reasonably accessible to the displacee’s place of employment; (f) on a site that is typical in size for residential development with normal site improvements including customary landscaping, excluding special improvements such as outbuildings, swimming pools and greenhouses; (g) available on the market; and (h) within the financial means of the displaced family or individual.

### **A. Replacement Housing Payment**

The replacement housing payment is the difference, if any, between the amount finally paid for the property acquired and the actual cost which the owner paid for a comparable decent, safe and sanitary dwelling, or the amount determined by the Department as necessary to purchase a comparable dwelling, whichever is less.

### **B. Increased Mortgage Interest Costs**

You will be reimbursed for increased interest costs if the interest rate on your new mortgage exceeds that of your present mortgage. The interest rate on the new mortgage used in determining the amount of the payment 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. To be eligible, your acquired dwelling must have been encumbered by a bona fide mortgage which was a valid lien for at least 180 days prior to the initiation of negotiations and the mortgage was for the purchase of or improvements to the dwelling.

You may also be eligible for reimbursement of purchaser points and/or loan origination fees, when such fees are normal to real estate transaction in your area (payment will be based on the remaining balance of the mortgage on the acquired property).

### **C. Closing Costs**

You may also be reimbursed for other expenses such as reasonable costs incurred for title search, recording fees and certain other closing costs, but not including prepaid expenses such as real estate taxes and property insurance.

## Owner Retains His Dwelling And Uses It As Replacement Dwelling

It is possible for an owner to retain the present dwelling, move it from the right of way and use it for replacement housing. Please contact the Department’s representative for details.

## Replacement Housing Payment Eligibility

### **Owner-Occupant for 180 Days or More**

To be eligible for replacement housing payments the displacee must have owned and occupied the dwelling for not less than 180 consecutive days immediately prior to the first formal contact to acquire the property\*.

*\* Initiation of negotiations*

In addition, you must purchase and occupy a decent, safe and sanitary replacement dwelling, within one year of the date you move, receive final payment for the displacement dwelling or the date the required amount is deposited in court, whichever is later. Application for the replacement housing payment should be made as soon as possible after replacement housing is purchased and must be made on a form furnished by the Department. The claim for payment must be filed within 18 months after date of displacement or date of final payment, whichever is later.

Replacement dwellings must be decent, safe and sanitary. In brief, this means that the replacement dwelling conforms to State and Local building plumbing, electrical, housing and occupancy codes or ordinances, or in the absence of such codes it meets similar criteria established by the Department. The Department’s representative will furnish a copy of these requirements. The replacement dwelling must be inspected by a representative from the Department to see that it meets these standards prior to payment.

## Inspection Should Be Made Before Any Agreement To Buy Or Rent Replacement Housing Is Made.

In the event the replacement dwelling does not meet these standards, the displacee will be advised in writing of the deficiencies. It is not necessary to buy a comparable house in order to qualify for a supplemental payment, but the replacement dwelling must be decent, safe and sanitary.

If a relocatee elects to construct a new replacement dwelling, the payment will be based on the cost of comparable housing as determined by the Department or the cost of construction whichever is less.

Upon request, the Department will verify to any interested party the eligibility of the relocatee for Replacement Housing Payments and the amount of such payment. In addition, the replacement housing payment, closing costs and increased interest costs may be paid at the closing of your replacement dwelling. The Department's representative will advise you of the Department's procedure.

## Rental Payments - Down Payments Owners And Tenants

Tenants, owners who prefer to rent, or owners who occupied their dwelling for less than 180 days prior to the initiation of negotiations may be entitled to a supplemental payment to assist them in renting a replacement dwelling if they occupied the property for at least 90 days prior to the initiation of negotiations.

The payment will equal the difference, as determined by the Department, between the cost of renting a comparable, decent, safe and sanitary dwelling and the actual or economic rent of the acquired property. The amount of rental payment is determined by subtracting 42 times the average rent being paid during the last three (3) months or the economic rent from the rental cost over forty two (42) months at the comparable property. Utilities will be included in the rental for the acquired property and the comparable replacement property when making this calculation. The rental payment will normally be paid in a lump sum unless the Department determines otherwise. To qualify for the payment you must rent and occupy a decent, safe and sanitary dwelling within twelve (12) months of the date you move, and claim for payment must be filed within eighteen (18) months of the date you move.

If you rent a sleeping room, the supplemental rent payment, if any, will be based on the rent for a comparable sleeping room. The standards of being decent, safe and sanitary will apply; however, a kitchen area need not be provided. Lavatory and toilet facilities must be provided including a door for privacy which can be locked.

A tenant and short term owner may elect to purchase replacement housing. In that event, they may qualify for a down payment on a comparable decent, safe and sanitary dwelling if the Department has determined, computed and has made the displacee a rental supplement payment offer.

The displacee does not qualify for a down payment assistance amount if he/she was not eligible to receive a rent supplement payment amount. The down payment replacement housing payment is not to exceed the amount of the rent supplement, if any, described above including closing costs (Election to purchase must be made within twelve (12) months of the date moved, when converting a rent supplement to down payment.)

## Mobile Homes

Occupants of mobile homes are basically entitled to the same moving and replacement housing payments as occupants of a conventional dwelling.

The various choices and combinations of payments are too numerous to list; however, relocatees who occupy a mobile home will be contacted and advised of the choices, amounts and procedures to claim the moving cost and replacement housing payments.



## Subsequent Occupants

Persons in occupancy when property is acquired by the Department, but who do not qualify as either a 180 day or 90 day occupant prior to the initiation of negotiations, are eligible for advisory services and reimbursement of moving expenses. Also, they may be eligible for financial assistance in obtaining replacement housing if comparable housing is not available within their financial means.

# Replacement Housing Payments In The Event Of Condemnation

Since replacement housing payments are determined partially from the amount paid by the Department for the property acquired, a final determination of payment due cannot be made in the event of condemnation until the condemnation has been settled. The replacement housing payment will be recomputed based on the verdict by the court compared to the actual price paid for replacement property, or the amount determined by the Department necessary to acquire a comparable decent, safe and sanitary dwelling, whichever is less. An advance payment may be made by the Department pending the final determination of condemnation. Such payment would be limited to the amount determined by the Department. The owner must execute a promissory note and Deed to Secure Debt in the amount of the advance payment on the replacement property before an advance payment is made. Should the recomputation of benefits due result in a decrease of payment, the difference would have to be refunded to the Department. Should the recomputed benefits result in an increase the additional payment will be made by the Department.

# Effects Of Relocation Assistance Benefits On Income

No relocation payment received will be considered as income for the purpose of the Internal Revenue Code or for the purposes of determining eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

# Appeals

## **(Relocation Assistance & Incidental Expenses)**

Any disagreement on eligibility for, or the amounts of, relocation payments and expenses to transfer title to the Department may be appealed. An appeal should be made as soon as you feel aggrieved, but the latest an appeal may be filed is twelve (12) months from the date you received written notification of the Department's determination of your eligibility or amounts of payment.

The appeal will be handled by the Department or Local Acquiring Agency in accordance with Federal law (42 USC 4601 et seq.) and the Georgia Administrative Procedures Act (Georgia Code Chapter 50-13) in the following manner:

1. Upon receipt of the appeal all determinations of benefits will be administratively reviewed by the Department. Prompt notification of the results of the Department review will be provided.

2. If, after the Departmental review, a further review is desired, a request in writing must be made to the Office of State Administrative Hearings.
3. If the decision of the Office of State Administrative Hearings is unsatisfactory to the Appellant or the Department, either party may submit a request to the Department of Transportation for an agency review.

In the event the property being acquired by the Department is pending final judgment due to condemnation and the appeal pertains to the cost of replacement housing, the appeal findings will only determine the cost of replacement housing. No payment can be determined until final judgment at which time the Department will use this cost in computing the amount of Replacement Housing Payment.

# 1968 Fair Housing Law

In Title VIII of the Civil Rights Act of 1968 (the Fair Housing Law), Congress declared a national policy of providing fair housing throughout the United States. This law and later Acts and amendments make discrimination based on race, color, religion, sex, or national origin illegal in connection with the sale or rental of most housing and any vacant land offered for residential construction or use.



# The Americans With Disabilities Act Of 1992

The Americans with Disabilities Act, of 1992 requires non-discrimination on the basis of Disability in State and Local Government Services. Therefore, no individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the service or activities of a public entity or be subjected to discrimination by any such entity. If you have any questions regarding this Act, contact or write the following individual:

## **Right of Way Relocation Manager**

Georgia Department of Transportation  
600 West Peachtree Street, N.W.  
Atlanta, Georgia 30308  
404.347.0159



# Control Of Right Of Way

Right of Way conveyed to the Department for public road purposes must be utilized for that purpose exclusively, except such encroachments as may be permissible by permit from the Department. The adjacent land owner or other individuals are not permitted to use the right of way for permanent parking, storage of materials, display of merchandise, erection of signs, fences, or other structures. Prior to planning construction adjacent to the right of way, the owner should contact the appropriate District Engineer as listed in this brochure to obtain application forms for an entrance permit. His office will provide assistance in securing permissible entrances not specifically provided for on the construction plans. On Limited Access Projects, no entrances are permissible across the limited access right of way.



## Environmental Law

The purchase of property by the Department of Transportation does not limit Environmental responsibility of either the Grantee or Grantor under Federal 40 CFR 280.12 or other applicable State or Federal Environmental Laws.

## Georgia Department Of Transportation District Offices

The map shown in this booklet indicates the location of the Department's District Offices at which you may obtain additional information regarding the regulations outlined in this booklet.



### District Engineer Contact Numbers:

**District One**  
770-532-5526  
Gainesville

**District Three**  
706-646-6500  
Thomaston

**District Six**  
770-387-3602

**District Two**  
478-552-4601  
Tennille

**District Four**  
229-386-3280  
Tifton

**District Seven**  
770-986-1011  
Chamblee

**District Five**  
912-427-5700  
Jesup



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