

ATTACHMENT A

Project 4081 - none

DEPARTMENT OF TRANSPORTATION

Revisions per Chapter 218

24VAC30-41-30. 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;
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;
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 and provides the same utility. While 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. In such cases, any requirements of the public housing assistant program relating to the size of the replacement dwelling shall apply.
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.

"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;
2. Had average annual net earnings of at least \$1,000; or

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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. Meets local housing and occupancy codes, 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;
6. Provides unobstructed egress to safe open space at ground level; and
7. Is free of barriers to egress, ingress and use by a displacee who is disabled.

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

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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;
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.~~7. 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.~~8. A person determined to be not lawfully present in the United States.

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

"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.

"Dwelling site" means land area that is typical in size for dwellings located in the same neighborhood or rural area.

"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~~ 90 days prior to initiation of negotiations (~~180-day homeowner~~) (90-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 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 the person's base monthly rent for the displacement dwelling. Such rental assistance must be paid under last resort housing.

"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:

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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;
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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24VAC30-41-220. 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.

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," effective ~~November 21, 2001, revised July 1, 2006~~ October 1, 2014.

24VAC30-41-290. 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:

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

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Displacees," effective ~~November 21, 2001, revised July 1, 2006~~ October 1, 2014, 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.

24VAC30-41-300. Searching expenses.

A. A displaced business, farm operation, or nonprofit organization is entitled to reimbursement for actual expenses, not to exceed \$2,500, 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;

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5. Time spent in obtaining permits and attending zoning hearings; and
6. Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

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," effective ~~November 21, 2001, revised July 1, 2006~~ October 1, 2014, for example).

24VAC30-41-310. 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.

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. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting;
5. Licenses, fees and permits when not paid as part of moving expenses;
6. Advertisement of replacement location;

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7. 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;
- c. Insurance premiums; and
- d. Utility charges, excluding impact fees.

8. 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," effective ~~November 21, 2001,~~ revised ~~July 1, 2006~~ October 1, 2014.

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.

24VAC30-41-320. 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

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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 \$75,000.

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.")
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.

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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.

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 \$75,000. 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 \$75,000 in lieu of the payments for actual moving and related expenses if VDOT determines that it cannot be

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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.

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.

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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 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," effective ~~November 21, 2004,~~ revised ~~July 1, 2006~~ October 1, 2014.

24VAC30-41-340. Fully eligible occupants.

A. A fully eligible owner-occupant of ~~180~~ 90 days or more may receive either a purchase supplement payment plus increased mortgage interest costs and incidental costs not to exceed ~~\$22,500~~ \$31,000 or a rent supplement ~~not to exceed \$5,250~~ subject to the conditions set forth in 24VAC30-41-510.

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~~ \$7,200 and subject to the conditions set forth in 24VAC30-41-570, or a rent supplement, not to exceed ~~\$5,250~~ \$7,200.

B. The above limits of ~~\$22,500~~ \$31,000 and ~~\$5,250~~ \$7,200 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

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replacement housing while retaining original status as either an owner or a tenant. This obligation overrides any monetary limit, which would otherwise apply. Refer to Part XI (24VAC30-41-650 et seq.) of this chapter for last resort housing provisions.

24VAC30-41-360. 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 24VAC30-41-30, within one year, beginning on the following dates:

1. Owner-occupant of ~~180 days or more.~~ 90 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 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

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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-displacée, payment may be made 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.

Part VIII

Replacement Housing Payments for Owner-Occupants for ~~180~~ 90 Days or More

24VAC30-41-390. General.

A displaced owner-occupant of a dwelling may receive a replacement housing payment, the elements of which will not exceed ~~\$22,500~~ \$31,000 except when last resort housing has been authorized. The elements included in the replacement housing payment are: additional costs 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.

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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.

24VAC30-41-400. 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~~ 90 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
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.

24VAC30-41-430. 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

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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 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," effective ~~November 21, 2001, revised July 1, 2006~~ October 1, 2014, 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.

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

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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:

Example
Major Exterior Attribute (swimming pool)

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:

Comparable Dwelling (adjusted)	\$101,850
Less:	
Displacement property value	\$100,000
Less value of the pool	\$5,000
Adjusted displacement property value	\$95,000
Purchase Supplement Amount	\$6,850

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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24VAC30-41-510. Owner-occupant for ~~180~~ 90 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. 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 24VAC30-41-520, 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.

Part IX

Replacement Housing Benefits for Tenants, ~~and Owners Who Choose to Rent Replacement~~
Housing

24VAC30-41-520. 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.~~

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B. A ~~displaced owner or tenant~~ eligible under this category can receive a replacement housing payment not to exceed ~~\$5,250~~ \$7,200 to rent a decent, safe and sanitary replacement dwelling. A tenant may be eligible for a down payment supplement up to ~~\$5,250~~ \$7,200. The monetary limit of ~~\$5,250~~ \$7,200 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 (24VAC30-41-650 et seq.)).

C. A discussion of rent supplement determination is found in the "Guidance Document for the Determination of Certain Financial Benefits to Displacees," effective ~~November 21, 2001,~~ revised ~~July 1, 2006~~ October 1, 2014.

24VAC30-41-540. Disbursement of rental replacement housing payment.

The rental payment, ~~in the amount of \$5,250 or less,~~ as determined in 24VAC30-41-530 shall be paid in a lump sum, unless the district manager determines that it should be paid in installments.

24VAC30-41-550. ~~\$5,250~~ \$7,200 limit on offers.

A rent supplement payment offer is limited to ~~\$5,250~~ \$7,200 under normal program authority. VDOT has an overriding responsibility, however, to enable tenant displacees to rent replacement housing within their financial means. See 24VAC30-41-30 for the definition of "financial means." If the payment computation exceeds ~~\$5,250~~ \$7,200, last resort housing provisions are applicable. See Part XI (24VAC30-41-650 et seq.) of this chapter for last resort housing provisions.

24VAC30-41-570. 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

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may be increased to any amount, not to exceed ~~\$5,250~~ \$7,200, 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 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.

24VAC30-41-580. Section 8 Housing Assistance Program for low income families.

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

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recipients to units in which their Section 8 benefits will continue. If a normal relocation rent supplement is 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.

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,

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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:

Example
Rent Supplement - Section 8 Voucher Program

FACTS BEFORE RELOCATION:

Displacee household income	\$1,000/month
30% of income	\$300/month
Fair market rent and contract rent	\$550/month
Actual rent paid (Section 8 voucher = \$225)	\$325/month

AFTER RELOCATION:

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).

$$(\$325 - \$300) \times 42 \text{ months} = \$1,050$$

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;
2. Receive down payment subsidy of ~~\$5,250~~ \$7,200 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 if classified as low income by HUD. This is a conventional rent supplement situation. If the

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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.

24VAC30-41-620. 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.

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~~ \$7,200 for 90-day owner and tenant-occupants or ~~\$22,500~~ \$31,000 for ~~180-day~~ 90-day owner-occupants, unless last resort housing provisions in accordance with Part XI (24VAC30-41-650 et seq.) of this chapter are applicable. Replacement housing and rent supplement offers and payments will be computed in accordance with Parts VIII (24VAC30-41-390 et seq.) and IX

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(24VAC30-41-520 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 cost of a comparable dwelling is the value of the displacee's mobile home plus the cost to make the necessary repairs or modifications.

24VAC30-41-630. Replacement housing payments; ~~180-day~~ 90-day owner-occupant.

A. General. A displaced owner of a mobile home who has occupied the home and site for at least ~~180~~ 90 days is eligible for the following as a replacement housing benefit:

1. The additional cost necessary to purchase replacement housing as specified in subsections B, C, D, and E of this section, and in accordance with the provisions of Part VIII (24VAC30-41-390 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 24VAC30-41-500; 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 24VAC30-41-510.

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 24VAC30-41-510.

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:

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 24VAC30-41-430.

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:

- 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

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for up to ~~\$5,250~~ \$7,200 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.

24VAC30-41-640. Replacement housing payment to tenants of ~~90 days or more and owner occupants for 90-179 days~~ of 90 days or more.

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~~ \$7,200 (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:

1. The rental replacement housing payment is to be determined in accordance with the provisions of 24VAC30-41-530.
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

24VAC30-41-650. 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~~ \$7,200 and ~~\$22,500~~ \$31,000, 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.

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," effective ~~November 21, 2001,~~ revised ~~July 1, 2006~~ October 1, 2014.

24VAC30-41-660. 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:

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- a. The computed replacement housing payment exceeds the ~~\$22,500~~ \$31,000 limitation; or
 - b. The computed rent supplement exceeds the ~~\$5,250~~ \$7,200 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.

24VAC30-41-680. 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~~ \$31,000 for a displaced owner or ~~\$5,250~~ \$7,200 for a displaced tenant;
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 disabled displacee.

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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.

FORMS (24VAC30-41)

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. 7/06).

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

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. 7/06).

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

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RW-65A(1), Application for Purchase Replacement Housing Payment (Owner-occupant for not less than 90 days) (rev. 10/14).

~~RW-65B(1), 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-65B(1), Application for Purchase Replacement Housing Payment (Tenant-occupant of not less than 90 days) (rev. 10/14).

RW-65C(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).