WEST VIRGINIA CODE CHAPTER 54 ARTICLE 3

WV Legislature

§54-3-1. Definitions.

As used in this article, the term:

(1) "Federal act" means the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", being Public Law 91-646, enacted by the ninety-first Congress of the United States of America, and the 1987 amendments thereto known as Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 being Public Law 100-17 enacted by the One Hundredth Congress of the United States of America.

(2) "Acquiring agency" means the State of West Virginia or any department, agency or instrumentality thereof, or any county, municipality or other political subdivision thereof or any department, agency or instrumentality of two or more states or of two or more political subdivisions of a state or states, and any person carrying out a program or project with federal financial assistance which causes a person to be a displaced person within the intent and meaning of the federal act.

(3) "Person" means any individual, partnership, association or corporation.

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§54-3-2. Statement of purposes.

The purposes of this article are: (1) To require the establishment of a uniform policy for the fair and equitable treatment by state agencies of persons displaced from property in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole; and (2) to encourage and expedite the acquisition of real property or any interest therein by agreements with persons so as to avoid litigation and relieve congestion in the courts, to assure consistent treatment of persons and promote public confidence in the land acquisition practices of any state agency.

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§54-3-3. Implementation of federal act; powers of state agencies; payments under act not considered income or resources for certain purposes.

In order to accomplish the purposes set forth in section two of this article and to satisfy the requirements of adequately compensating displaced persons under such federal acts, each acquiring agency is hereby required and is hereby granted plenary power and authority to adopt rules and regulations, which shall have the force and effect of law, to implement the provisions of such federal acts and make applicable to such acquiring agency the policies and requirements of such federal acts which are pertinent to the mission and functions of such acquiring agency, including, without in any way limiting the generality of the foregoing, the carrying out of all procedures and the making of all financial assistance payments, relocation assistance payments, replacement housing payments, loans and expense reimbursement payments required by such federal acts, subject only to any restrictions or limitations imposed by the Constitution of the State of West Virginia. The department of highways is hereby designated as the lead agency to develop, publish and issue such regulations to implement the provisions of this act and also to coordinate and provide policy and interpretations where necessary.

No payment of any type required by such federal acts and received by any person under this article and such rules and regulations shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law, or under any state or local tax law or ordinance, and no such payment shall be considered as income or resources of any recipient of public assistance and no such payment shall be deducted from the amount of aid to which the recipient would otherwise be entitled.

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§54-3-4. Construction of article; assistance for dislocation, etc., occurring prior to effective date.

Neither the provisions of this article nor any rules and regulations promulgated pursuant to section three of this article are intended to abrogate or derogate the provisions of section twenty, article two-a, chapter seventeen of this code, and, to the extent not in conflict with said section twenty, the West Virginia department of highways shall be considered to be an acquiring agency within the meaning of this article. To the extent that such department may expend funds or make payments pursuant to the provisions of this article and such rules and regulations, such expenditures or payments are hereby declared to be a cost of highway construction and may be expended and paid from the state road fund.

Neither the provisions of this article nor any rules and regulations promulgated pursuant to section three of this article shall be construed or interpreted so as to create any element of value or damage not in existence prior to the effective date of this article in any condemnation proceedings brought under the power of eminent domain exercised by any state agency except to the extent, if any, required by applicable law of the United States; but, notwithstanding any other provision of law, whenever an acquiring agency in a condemnation proceeding pays a sum into court as representing the fair market value of property to be acquired, the amount of the award or verdict pertaining to such property shall not be less than such sum.

Any acquiring agency may provide assistance as contemplated in such federal act even though the dislocation or acquisition occasioning the same occurred prior to the effective date of this article if federal funds are available for the payment of any such assistance.

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§54-3-5. Severability.

If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect, impair or invalidate other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

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