

1975 WL 29216 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 12, 1975

\*1 Every State agency and instrumentality, political subdivision and local government agency or instrumentality engaged in any program or project involving the acquisition of real property for public use is authorized and required to make payments to persons displaced by such program or project for the purposes and within the limits set forth in the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as prerequisites to Federal assistance, whether the particular program or project is federally aided or not.

TO: Counsel  
University of South Carolina

You have inquired whether the University of South Carolina in acquiring private property through its power of eminent domain is required by the Relocation Assistance Act (Sections 25-181, et seq., Code of Laws of South Carolina (1962), as amended) to make appropriate relocation assistance payments in all University projects whether or not the same are totally or partially funded with Federal aid. Section 25-181 of the South Carolina Code provides in pertinent part: To the extent that the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) makes relocation payments and assistance to displaced persons . . . by states a prerequisite to Federal aid to such states in programs or projects involving the acquisition of real property for public uses, . . . State agencies . . . involved in such programs or projects are empowered to expend available public funds for such purposes and are required to make such payments to such displaced persons . . . whether the program or project is federally aided or not, and such expenditures shall be deemed part of the cost of such program or project. (Emphasis supplied)

On cursory reading, the above section would seemingly contain contradictory phrases, 'To the extent that the . . . Act makes relocation payments and assistance by states a prerequisite to Federal aid' and 'State Agencies . . . are required to make such payments . . . whether the program or project is federally aided or not . . .' A reading of the Federal Uniform Relocation Assistance Act and closer reading of the State statute and legislative history clearly reveal neither ambiguity nor contradiction.

The popularly known South Carolina Relocation Assistance Act (Sections 25-181, et seq.) was passed as Act No. 1345, 1972 Acts and Joint Resolutions of the General Assembly of South Carolina and amended in that same session by Act No. 1577, 1972 Acts and Joint Resolutions of the General Assembly of South Carolina. Act No. 1345 of 1972 was entitled 'An Act To Enable And Require State Agencies And Political Subdivisions to Expend Available Public Funds For Relocation And Relocation Assistance Purposes When Any Program Or Project Undertaken Involving Acquisition Of Real Property Will Result In Displacement Of Any Person Or Other Legal Entity, And To Repeal Act 157 of 1959, Relating To Relocation Payments To Persons Displaced By Highway Construction.' Act No. 157 of 1969 had provided certain relocation payments and assistance to all persons displaced as a result of highway construction and specified the types and extent (maximum dollar allowances) authorized.

\*2 The Federal Uniform Relocation Assistance and Real-Property Acquisition Policies Act of 1970 (Public Law 91-646) provides in Section 210 thereof the type and extent of State relocation assistance programs required in order to qualify for Federal assistance. Included as prerequisites are certain described payments for moving and related expenses, replacement housing for homeowners, placement housing for tenants and certain others, and relocation assistance advisory programs. The requirements and maximum dollar allowances are set out in detail in the Federal act.

It is apparent that South Carolina in the enactment of its own relocation assistance legislation intended to incorporate by reference the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and authorize and require payments to all persons or legal entities displaced by reason of programs or projects involving the acquisition of real property for public uses, whether or not such program or project is federally aided or not, but only to the extent in terms of types and monetary limits as would be required to qualify for federal assistance.

It is, therefore, the opinion of this office that Sections 25-181, et seq., of the South Carolina Code would require every State agency and instrumentality, political subdivision or local government agency or instrumentality engaged in any program or project involving the acquisition of real property for public use, to make payments to persons displaced by such programs or projects for the purposes and within the limits set forth in the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as prerequisites to Federal assistance, whether the particular program or project is federally aided or not.

John P. Wilson  
Senior Assistant Attorney General

1975 WL 29216 (S.C.A.G.)

---

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.