

What Happens If Your Property is Needed For A Transportation Facility



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Georgia DOT needs your help

Georgia DOT (GDOT/the Department) must acquire land to improve the state's transportation system, particularly if the infrastructure was built years ago and has outlived its intended use. If you own or rent property near an existing or proposed transportation facility, you will be interested in the procedure the Department uses to acquire the necessary right of way.

This brochure explains why your property may be needed, your rights as a property owner or tenant, and provides answers to some of the questions that may arise if your property is needed for a transportation improvement project. This brochure is intended to be used as an outline. For more detailed information, please consult the Georgia DOT representative assigned for the acquisition of your property.

Why is my property needed?

The State of Georgia is engaged in a continuous process of improving its transportation systems. Many factors are critically analyzed and evaluated in locating and designing today's transportation systems. Some of the factors considered include the traveling public need, a rapidly growing state population, business environment, safety aspects, and aesthetics. Projects include repairing or replacing deteriorating bridges, improving safety of roadway or intersections, adding additional lanes for increased capacity, and others. Transportation facilities must not only transport people, goods and services, but be planned and designed to blend with communities, urban and rural.

Does GDOT have the right to acquire my property?

The Constitution of Georgia and the Constitution of the United States provides 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 be notified my property is needed?

The Department will advise the owner well in advance of actual negotiations. The Department holds public hearings, meetings and individual visits. You should not act on rumors. Be sure you have the facts from the Department before building or making major property decisions or changes. Note that surveying of land near an owner's property does not mean GDOT will utilize the location for a transportation project.

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 or 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 amount. 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.



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:
 - Recording and/or cancellation fees, and similar expenses incidental to the conveyance of the acquired property to the Department.
 - Penalty costs for pre-payment of any pre-existing recorded mortgage entered into in good faith encumbering such real property.
 - A pro-rated portion, on a calendar year basis, of all real estate property taxes paid, or due and payable at the time of acquisition.
 - Reasonable survey fees to reestablish existing property corner pins that were removed as a result of the acquisition or construction.
4. Expert appraisers will evaluate the property thoroughly, completely and accurately
5. Owners do not pay legal or appraisal fees unless they hire their own attorney or appraiser



Who prepares the deed and handles the closing?

Closing requirements will be similar to that required in any real estate transfers. The Department prepares the deed at no charge to the property owner. It will be necessary to satisfy all outstanding loans or liens on the property. This is done by bringing together all parties who have an 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 will be filed in superior court of the county where the property is located. One of the following methods will be employed:

1. **Declaration of Taking.** The most commonly used method. Upon filing the petition, the Department deposits its estimate of just compensation. At that time, title passes to the Department.
2. **Special Master.** The superior court judge appoints an attorney to hear the evidence and make an award.
3. **Three Assessors.** 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. All three assessors review the facts and make an award based on their findings.





May I keep my home or other buildings?

If closing by DEED, there are two procedures by which the owner may retain the home and/or other buildings located on, or partially on, the property being acquired. During negotiations, an agreement will be reached with the owner regarding the building(s) and will be written or detailed in the option agreement. These procedures are as follows:

1. The owner may desire to retain the buildings at a predetermined retention value set by the Department and arrange to move the building(s) to a new location. The property owner will pay the Department the retention value as determined by the Department for each improvement to be retained. 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. Improvements retained by the property owner must be removed within 30 days of closing.
2. Improvements not retained under paragraph 1, are bid out for demolition to prequalified, pre-approved right-of-way demolition contractors and disposed of according to Georgia Environmental Protection Division guidelines.

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 regarding 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. However, in the event you move prior to negotiations for the parcel (property you occupy), your eligibility for Relocation Assistance Benefits could be forfeited.

What if I need relocation assistance?

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 representatives of the Department. It is their goal and desire to be of service and assist in a successful relocation.

The Department's representative is familiar with services provided by public and private agencies. If there are needs, please make these known to the representative. If the representative cannot assist with a specific problem, the representative may know someone who can.

Additionally, the Department will assist with information about local housing ordinances, open houses, building codes, social services, and consumer housing topics. Some examples of these consumer housing topics include typical security deposits, closing costs, down payments, interest rates, loan terms, and property taxes.

Individuals not lawfully present in the United States are not eligible for relocation assistance benefits

Public law 105-117 states 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. Additionally, the 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 discovered that some 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 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 illegal aliens cannot be paid to any of the remaining eligible displacees. Under law, the Department may deny eligibility if:

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



RELOCATION ASSISTANCE BENEFITS: MOVING

Will I have to pay moving costs to move my furniture and other personal property?

If you are displaced, you will be entitled to be reimbursed reasonable and necessary moving costs, subject to certain limitations and requirements. The three methods of moving and their related types of moving cost payments are outlined in the brochure. For more details, see either the Residential or Business Move Methods sections, depending on your type entity. Note that you cannot combine any parts of the three move methods. Do not move before you have discussed your moving plans with your designated relocation representative and received written authorization. You can jeopardize your right to receive relocation assistance payments unless you advise GDOT in advance of your plans and move.

Note also that should you elect the Method B Actual Cost Move, costs may include dismantling, insuring, disconnecting, transporting, crating, loading/unloading, and reconnecting personal property. Also, dislocation 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 personal property, the owner and the Department must agree in writing that the property is personal.



Persons eligible for moving payments

To be eligible for moving payments, the real property must be determined a relocation or consequential impact 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 GDOT

If electing the Method A move, an eligible occupant with financial hardship may request a partial payment of moving expenses in advance of the move completion, but only after the Department acquires the property.

RELOCATION ASSISTANCE BENEFITS: RESIDENTIAL

Moving Payments for individuals and families

Eligible individuals or families may be reimbursed for reasonable and necessary moving expenses by one of the three methods identified as Methods A, B or C. The preferred method must be selected before the move by indicating it on the form labeled Application for Moving Costs. These costs are not applicable for items classified by the Department as real property. Claimants cannot combine any parts of the three methods.

There is no limitation on the distance an occupant desires to move. However, reimbursement for transportation expenses or charges is limited to 50 miles, except with prior approval from the Department. Exceptions will only be allowed when the relocation cannot be accomplished within a 50-mile radius, and then only up to the distance to the nearest comparable and available site. Claims must be filed with the Department within eighteen months from the date a tenant moves; Owners have 18 months from the date of move or date of final payment for the acquired dwelling, whichever is later.

Occupants of mobile homes and travel trailers are eligible for payment under Methods B or C, when the Department concludes that the dwelling is 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. Determination of the amount is based on the number of rooms with adequate furnishings. This amount includes a dislocation allowance to assist with 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 must give to you a bill of lading, invoice, receipt, statement, or other acceptable documentation for moving costs to forward to the Department. The mover will be paid directly by the Department for all reasonable costs. If it is necessary for more than one mover to complete the move, the Department must approve both movers prior to the move. For this move method, reconnection charges for utilities, such as electricity, natural gas, telephone, cable TV will be reimbursed on an actual cost basis for incurred expenses supported by paid bills.

Method C: Self Move

You may choose to move your own personal property and be reimbursed for actual reasonable expenses incurred, as long as these expenses are supported and documented by paid, acceptable receipted bills. Such payments may not exceed the estimated cost of moving commercially, based on estimates secured by the Department prior to the move.

A claim form will be provided for making claim and attaching paid receipts to be submitted. The Department's representative will assist in processing the claim. For this move method, reconnection charges for utilities, such as electricity, natural gas, telephone, cable TV will be reimbursed on an actual cost basis for incurred expenses supported by paid bills.



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 when financing replacement housing; and reimbursement of certain closing costs incidental to the purchase of replacement housing. A comparable dwelling is one in which, when compared with the dwelling being acquired, is:

- a. Decent, safe and sanitary
- b. Functionally equivalent with 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 displacees 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
- h. Within the financial means of the displaced family or individual.

Replacement housing payment determination

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 decent, safe, and sanitary replacement dwelling, or the amount determined by the Department as necessary to purchase a comparable dwelling, whichever is less.

Increased mortgage interest costs

You may be reimbursed for increased interest costs if the interest rate on your new mortgage exceeds your present mortgage rate. The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for current conventional mortgages currently charged by mortgage lending institutions in the area of the replacement dwelling. To be eligible, your acquired dwelling must have been encumbered by a bona fide mortgage lien for at least 180 days prior to the initiation of negotiations and was for purchase of, or improvements to, the dwelling.

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

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 prepaid expenses such as real estate taxes and property insurance.

Owner retains dwelling and uses 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-Occupants, 90 Days or More)

To be eligible for replacement housing payments the displacee must have owned and occupied the dwelling for not less than 90 consecutive days immediately prior to the first formal contact to acquire the property (initiation of negotiations).

Additionally, 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 purchasing replacement housing, and the Department representative can assist with completing the claim form. 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 order to qualify for replacement housing benefits participation. They must conform to state and local building, plumbing, electrical, housing and occupancy codes or ordinances. In the absence of such codes, the dwelling must meet similar criteria established by the Department. The Department can furnish a copy of the requirements as applicable. The replacement dwelling must be inspected by a representative of the Department to determine that it meets these standards prior to payment.

Inspection should be made before any agreement for replacement housing (owners & tenants)

If the dwelling does not meet descent, safe, and sanitary standards, the Department will advise the displacees in writing of the deficiencies. It is not necessary to purchase comparable housing in order to qualify for a replacement housing payment, however, the dwelling must be decent, safe and sanitary.

If a relocatee elects to construct a new replacement dwelling or manufactured home, the payment will be based on the cost of comparable housing as determined by the Department or the cost of construction whichever is less. For benefits purposes, the construction documents are needed prior to any commitment to build for the Department to determine eligibility. The Department will not make replacement housing payments for new construction in advance of completion, inspection, certificate of occupancy (if required), and receipt of proper claim and purchase documentation.

Upon request, the Department will verify to interested parties the amount of eligibility of the relocatee for replacement housing payments and any remaining qualification criteria. The replacement housing payment, closing costs and increased interest costs can be paid at closing. The Department's representative can advise you of the procedure.



Rent supplement payments and down payments

Residential tenants or owners who prefer to rent may be eligible for a rent supplemental payment to assist with renting a replacement dwelling.

As determined by the Department, the payment will equal the difference 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 the rental payment is determined by subtracting 42 times the average rent paid during the last three months or the economic rent from the rental cost over 42 months at the comparable property. Utilities will be included in the rental for the acquired property and the comparable property when making the calculation. The Department will pay the rent supplement in a lump sum unless considered above last resort amount (consult your Department representative). To qualify for the payment, you must rent and occupy a decent, safe and sanitary dwelling within 12 months of the date you move, and your claim for payment must be filed within eighteen 18 months of the date you move.

If renting a sleeping room, the rent supplement payment, if any, based on the rent for a comparable sleeping room. The same requirements for decent, safe, and sanitary dwelling standards will apply, however a kitchen area need not be provided. Bathroom facilities must be included with lockable doors for privacy.

A tenant and short-term owner may elect to purchase replacement housing and may qualify for a down-payment on a replacement dwelling if the Department has determined, computed, and offered the displacee a rental supplement payment. Note that 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 for replacement housing cannot exceed the amount of the rent supplement, if any, including any eligible closing costs. An election to purchase must be made within 12 months of the date moved, when converting a rent supplement to down payment.

Mobile Homes

Occupants of mobile homes are generally entitled to the same moving and replacement housing payments as occupants of a conventional dwelling, provided the same eligibility requirements are met. A written offer of relocation assistance benefits will detail the applicable benefits, and the Department's representative will assist with any questions and procedures to make claim for these payments.

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 until condemnation has been settled. The replacement housing payment will be recalculated based on the verdict by the court as 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 final determination of condemnation. This 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 any advance payment. Should the re-computation of benefits result in a decrease of payment, the difference would have to be refunded to the Department. If it results in an increase, the Department will pay the additional amount due.





RELOCATION ASSISTANCE BENEFITS: BUSINESSES, FARMS, & NONPROFIT ORGANIZATIONS

Moving Payments: Businesses, Farms and Nonprofits

Eligible businesses, farms, and non-profit organizations may be reimbursed for reasonable and necessary costs of removing, moving, and reinstalling personal property by selecting one of the three move methods in this section. Regardless of the move method elected, the organization must provide the representative at least a seven day advance notice of the move or disposition of personal property. If electing the Method A move, an eligible organization with financial hardship may request a partial payment of moving expenses in advance of the move completion, but only after the Department acquires the property.

Prior to payment of any expenses for removal and reinstallation of this property, the owner and the Department will agree in writing, that the property is personal. The owner or operator may be required to prepare and certify an inventory of items to be removed and reinstalled. If the personal items to be removed and reinstalled deviate significantly from the items removed and reinstalled, the previously agreed upon amount will be revised accordingly.

In addition to Method A – Self Move or Method B – Actual Cost Move, the following moving incidentals will be reimbursed if pre-qualified by the Department as reasonable and necessary. Note that dislocation allowance or reconnection charges for utilities, such as electricity, natural gas, telephone, and cable will be reimbursed on an actual cost basis for incurred expenses supported by paid receipted bills.

Moving Incidentals may include:

1. Licenses
2. Permits
3. Re-lettering of signs
4. Replacing stationery on hand that is made obsolete
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 moving method desired must be selected prior to the move by submitting a Department form labeled "Application for Moving Cost Benefits." The Department will advise the owner-operator or tenant-operator of the amount of estimate prior to signing. The Department's representative must be permitted to monitor the move and make reasonable and timely inspections of the personal property at both the acquired and replacement sites. For property owner-operators, claims must be filed with the Department within 18 months of the date of move, or date of final payment for the property, whichever is later. For tenant operators, claims must be filed with the Department within 18 months of the date of move.



Method A: Self Move

If the relocatee wants to take full responsibility for the move, they can choose this option. A reimbursement amount will be prepared by the Department based on qualified personnel or moving contractor estimates. The claimant may elect to submit paid invoices and moving cost receipts. However, the Department will not reimburse in excess of the amount that would have been paid for a move by a commercial mover.

Method B: Actual Costs

If the relocatee elects, the Department will obtain at least two estimates from qualified moving contractors, and then determine payment based on the pre-qualified estimate. Upon completion of the removal, move, and reinstallation, the Department will make payment directly to the contractor.

Alternate Payments in addition to Methods A or B

The Department may consider payment for losses of tangible personal property if it is decided not to move such property. In order to qualify, the relocatee must demonstrate a bona fide effort to sell the item(s). GDOT may also consider reimbursement for reasonable and necessary sale expenses incurred. For details, consult with the Department's representative if you have personal property items which may not be moved, or which may be replaced at the new location.

Reestablishment Costs

The owner of a displaced small business, farm, or nonprofit organization is entitled to receive a reimbursement payment for reasonable and necessary expenses incurred to reestablish at a new site. These expenses must qualify as eligible costs identified below in this section. This payment is limited to \$25,000 and will only be paid if either moving Methods A or B is selected.

Note that a small business is defined as 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 occupied solely by outdoor advertising signs, displays or devices do not qualify as a business and are not eligible for the reestablishment expense. The income generated from the business must have been reported and filed with the Internal Revenue Service and the Georgia Revenue Department in order to be eligible for these benefits. The claimant will be required to submit certified copies of current and applicable individual and/or business income tax returns to the Department for verification.

A site considered as having **economic activity** is when it is producing or is capable of producing an ongoing legal financial activity currently in operation. Or, when there has been economic development produced at or by the residence or building within the last 24 months prior to the initiation of negotiation for the parcel.

Prior to incurring reestablishment expenses, you must submit for Department review a detailed list of anticipated expenses accompanied by supporting documentation, such as estimates and scope of work description. Upon completion and reestablishment of your business, you must submit proper paid invoices, receipts, and payment documentation of expenses actually incurred.

Eligible expenses may 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 painting, 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
 - d. Utility charges, excluding impact fee
7. Other items that the Department considers essential to the reestablishment of the business.

The following examples are not eligible for reestablishment benefits:

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 and 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 \$2,500. These expenses may include transportation, meals, lodging away from home and the reasonable value of time spent in the search including real estate agent or broker fees. This claim must be supported by:

1. Receipted Bills - include receipted bills for all expenses claimed, except the value of time spent in search.
2. Time Spent in Search – include your documented log of time spent in search for the replacement location. The log should include dates, locations, persons contacted, and time (hours) spent in search that is based on a reasonable hourly wage rate.

Method C: Fixed payment

In lieu of, or instead of all other relocation payments, an owner of a discontinued or relocated business, farm or nonprofit may be eligible for payment equal to the past two tax years' average annual net earnings. This payment cannot be less than \$1,000 or more than \$40,000. A person whose sole business at the displacement site is for rental property, the person will not be eligible for this payment.

For the business to qualify, the Department must determine:

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 entities which are not being acquired by the Department, and which are under the same ownership and engaged in the same or similar business activity
4. The business is not operated at a displacement dwelling solely for the purpose of renting the 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 taxable years prior to the displacement, and has:
 - a. average annual gross receipts of at least \$5,000, or
 - b. 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 qualify for this payment, the Department must determine:

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 to discontinue his entire farm operation at the present location or to relocate the entire 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 organization cannot be relocated without a substantial loss of its existing membership or clientele.

Payment Determination: Business 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 two taxable years immediately prior to the taxable year in which the business is displaced. 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.



Business or Farm: With 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.

For the organization to qualify for this payment, an owner 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 for the requested tax years are the best source of information and evidence of earnings.

A representative of the Department will assist businesses, farms, and nonprofit organizations in processing applications and claims.

RELOCATION ASSISTANCE & ADDITIONAL INFORMATION FOR ALL

Effects of relocation assistance benefits on income

No relocation payments received will be considered as income under 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, except for any federal law providing low-income housing assistance.

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 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, the Department will administratively review all determinations of benefits. 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

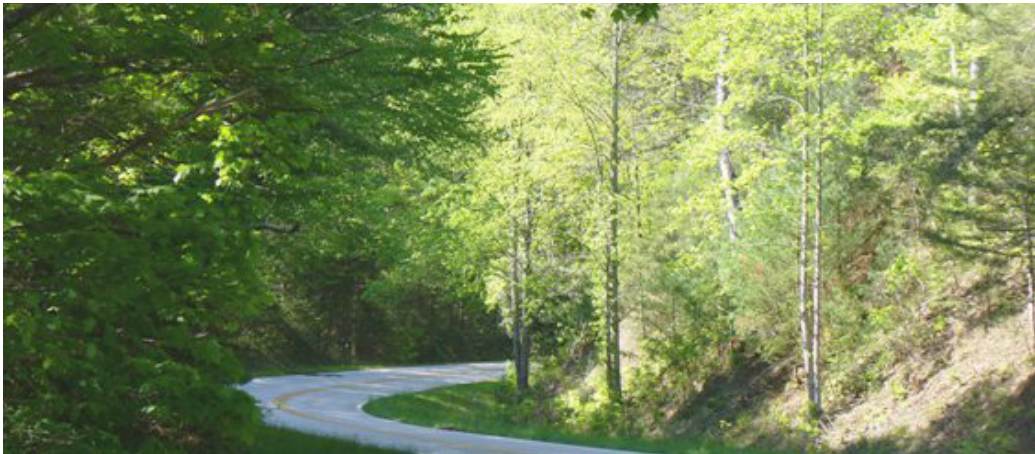
The Americans with Disabilities Act, of 1992 requires non-discrimination on the basis of disability in state and local government services. Therefore, no individual with a disability shall, because of such disability, be excluded from participation in, be denied the benefits of the service or activities 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, NW
Atlanta, Georgia 30308
404.347.0159



Control of Right of Way

The Department must utilize Right of Way conveyed for public road purposes 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. The District Engineer's office will assist 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 by either the Grantee or Grantor under Federal 40 CFR 280.12 or other applicable state or federal environmental laws.

Georgia DOT District Offices

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



Office of Right of Way
One Georgia Center
600 W. Peachtree St. NW
Atlanta, GA 30308

dot.ga.gov