



Ohio Administrative Code

Rule 5501:2-5-04 Replacement housing payments.

Effective: January 15, 2015

(A) Replacement housing payment for ninety-day homeowner-occupants.

(1) Eligibility: a displaced person is eligible for the replacement housing payment for a ninety-day homeowner occupant if the person:

(a) Has actually owned and occupied the displacement dwelling for not less than ninety days immediately prior to the initiation of negotiations; and

(b) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the agency may extend such one year period for good cause):

(i) The date the person receives final payment for the displacement dwelling or in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court; or

(ii) The date the displacing agency's obligation to have at least one comparable dwelling available to the displaced person is met.

(2) Amount of payment: the replacement housing payment for an eligible ninety-day homeowner-occupant may not exceed thirty-one thousand dollars. (see also paragraph (D) of this rule.) The payment under this rule is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

(a) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of a displacement dwelling, as determined in accordance with paragraph (A)(3) of this rule; and



(b) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (A)(4) of this rule; and

(c) The reasonable expenses incidental to the purchase of the replacement dwelling as determined in accordance with paragraph (A)(5) of this rule.

(3) Price differential

(a) Basic computation: the price differential to be paid under paragraph (A)(2)(a) of this rule, is the amount which must be added to the acquisition cost of the displacement dwelling and site. See paragraphs (B)(11) and (B)(12) of rule 5501:2-5-01 of the Administrative Code to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with paragraph (C)(1) of this rule; or

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(b) Owner retention of displacement dwelling: if the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the total of:

(i) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move; and

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling; and

(iii) The current fair market value for residential use of the replacement dwelling site, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and



(iv) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

(4) Increased mortgage interest costs: the displacing agency shall determine the factors to be used in computing the amount to be paid to a displaced person for increased interest costs (as defined in paragraph (A)(2)(b) of this rule). The payment for increased mortgage interest cost shall be the amount that will reduce the mortgage balance on a new mortgage to an amount that could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bonafide mortgages that were valid liens on the displacement dwelling for at least ninety days prior to the initiation of negotiations. Paragraphs (A)(4)(a) to (A)(4)(e) of this rule shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

(a) The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination, the payment will be prorated and reduced accordingly. In the case of a home equity loan, the unpaid balance shall be that balance which existed ninety days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(b) The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

(c) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(d) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

(i) They are not paid as incidental expenses;



- (ii) They do not exceed rates normal to similar real estate transactions in the area;
- (iii) The agency determines them to be necessary; and
- (iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling less the amount determined for the reduction of such mortgage balance under this rule.
- (e) The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.
- (5) Incidental expenses: the incidental expenses to be paid under this rule are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:
 - (a) Legal, closing and related costs including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.
 - (b) Lender, FHA or VA application and appraisal fees.
 - (c) Loan origination or assumption fees that do not represent prepaid interest.
 - (d) Professional home inspection certification of structural soundness and termite inspection.
 - (e) Credit report.
 - (f) Owner's and mortgagee's evidence of title; e.g., title insurance, not to exceed the costs for a comparable replacement dwelling.
 - (g) Escrow agent's fee.



(h) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

(i) Such other costs as the agency determines to be incidental to the purchase.

(6) Rental assistance payment for a ninety-day homeowner: a ninety-day homeowner occupant who could be eligible for a replacement housing payment under this rule, but elects to rent a replacement dwelling, is eligible for a rental assistance payment. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, is computed in accordance with paragraph (B)(2) of this rule, except that the limit of seven thousand two hundred dollars does not apply, and disbursed in accordance with paragraph (B)(2)(c) of this rule. Under no circumstances would the rental assistance payment exceed the amount that could have been received under paragraph (A)(2) of this rule had the ninety-day homeowner elected to purchase and occupy a comparable replacement dwelling.

(B) Replacement housing payment for ninety-day tenant

(1) Eligibility: a tenant displaced from a dwelling is entitled to a payment not to exceed seven thousand two hundred dollars for rental assistance, as computed in accordance with paragraph (B)(2) of this rule, or downpayment assistance, as computed in accordance with paragraph (B)(3) of this rule, if such displaced person:

(a) Has actually and lawfully occupied the displacement dwelling for at least ninety days immediately prior to the initiation of negotiations; and

(b) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within one year (unless the agency extends this period for good cause) after the date he or she moves from the displacement dwelling.

(2) Rental assistance payment



(a) Amount of payment: an eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed seven thousand two hundred dollars for rental assistance. (see also paragraph (D) of this rule.) Such payment shall be forty-two times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

(i) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

(ii) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(b) Base monthly rental for displacement dwelling: the base monthly rental for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the agency. (For a homeowner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances); or

(ii) Thirty per cent of the displaced person's average monthly gross household income if the amount is classified as "low income" by the U.S. department of housing and urban development's annual survey of income limits for the public housing. The base monthly rental shall be established solely on the criteria in paragraph (B)(2)(b)(i) of this rule for persons with income exceeding the survey's "low income" limits, for homeowner-occupants, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or,

(iii) The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

(c) Manner of disbursement: a rental assistance payment may, at the agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by provisions for



payment after death, the full amount vests immediately; whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(3) Down payment assistance payment

(a) Amount of payment: an eligible displaced tenant who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph (B)(2) of this rule if the person rented a comparable replacement dwelling. The minimum payment under this rule shall be seven thousand two hundred dollars. A displaced person eligible to receive a payment as a ninety-day owner-occupant is not eligible for this payment.

(b) Application of payment: the full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

(C) Additional rules governing replacement housing payments

(1) Determining cost of comparable replacement dwelling: the upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling.

(a) If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.

(b) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

(c) If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the agency, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for



purposes of computing the replacement housing payment.

(d) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(e) Multiple occupants of one displacement dwelling. If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(f) Deductions from relocation payments. An agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any creditor.

(g) Mixed-use and multifamily properties. If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered the acquisition cost when computing the replacement housing payment.

(2) Inspection of replacement dwelling: before making a replacement housing payment or releasing a payment from escrow, the agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling.

(3) Purchase of replacement dwelling: a displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

(a) Purchases a dwelling; or



- (b) Purchases and rehabilitates a substandard dwelling; or
 - (c) Relocates a dwelling which he or she owns or purchases; or
 - (d) Constructs a dwelling on a site he or she owns or purchases; or
 - (e) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or
 - (f) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value as determined by the agency.
- (4) Occupancy requirements for displacement or replacement dwelling: no person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:
- (a) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the president, the federal agency funding the project, or the displacing agency; or
 - (b) Another reason, such as a delay in the construction of the replacement dwelling, military duty, or hospital stay, as determined by the agency.
- (5) Conversion of payment: a displaced person who initially rents a replacement dwelling and receives a rental assistance payment is eligible to receive a payment under paragraph (A) or (B)(3) of this rule, if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed one year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under paragraph (A) or (B)(3) of this rule.
- (6) Payment after death: a replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:



(a) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

(b) Any remaining payment shall be disbursed to the remaining family members of the displaced household in any case in which a member of a displaced family dies.

(c) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

(d) Insurance proceeds; to the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (see paragraph (C) of rule 5501:2-5-01 of the Administrative Code)

(D) Replacement housing of last resort

(1) Determination to provide replacement housing of last resort: whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary statutory limits for owners or tenants, the agency shall provide additional or alternative assistance under the provisions of this rule. Any decision to provide last resort housing assistance must be adequately justified either:

(a) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

(i) The availability of comparable replacement housing in the program or project area; and

(ii) The resources available to provide comparable replacement housing; and

(iii) The individual circumstances of the displaced person; or



(b) By a determination that:

(i) There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole; and

(ii) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and

(iii) The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total program or project costs.

(2) Basic rights of persons to be displaced: notwithstanding any provision of this section, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act, R.C. 163 or this rule. The agency shall not require any displaced person to accept a dwelling provided by the agency under these procedures (unless the agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

(3) Methods of providing comparable replacement housing: agencies shall have broad latitude in implementing this section, but implementation shall be for reasonable cost, on a case-by-case basis, unless an exception to case-by-case analysis is justified for an entire project.

(a) The methods of providing replacement housing of last resort include, but are not limited to:

(i) A replacement housing payment in excess of the statutory limits. A rental assistance subsidy under this section may be provided in installments or in a lump sum at the agency's discretion.

(ii) Rehabilitation of and/or additions to an existing replacement dwelling.

(iii) The construction of a new replacement dwelling.



- (iv) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest free.
 - (v) The relocation and, if necessary, rehabilitation of a dwelling.
 - (vi) The purchase of land and/or a replacement dwelling by the agency and subsequent sale or lease to, or exchange with a displaced person.
 - (vii) The removal of barriers for persons with disabilities.
- (b) Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling including upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate the individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent.
- (c) The agency shall provide assistance under this section to a displaced person who is not eligible to receive a replacement housing payment under paragraphs (A) and (B) of this rule because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the displaced person's financial means (see paragraph (B)(2)(b)(ii) of this rule). Such assistance shall cover a period of forty-two months.