





**WEST VIRGINIA  
DEPARTMENT OF TRANSPORTATION**

1900 Kanawha Boulevard East • Building Five • Room 109  
Charleston, West Virginia 25305-0440 • 304/558-0444

Gaston Caperton  
Governor

Charles L. Miller, P.E.  
Secretary

October 28, 1994

Honorable Ken Hechler  
Secretary of State  
State Capitol Building  
Charleston, West Virginia 25305

Dear Secretary Hechler:

Emergency Rule to Amend an  
Existing Legislative Rule and  
Notice of Public Comment Period  
Division of Highways, Series II

The attached information is being submitted by the Commissioner of Highways with my consent and agreement in accordance with the provisions of West Virginia Code §5G-1. This Emergency Rule is submitted to comply with H.R. #4339 which addressed the Commissioner of Highways' authority to sell excess highway right-of-way.

Sincerely,

A handwritten signature in cursive script that reads "Charles L. Miller".

Charles L. Miller, P.E.  
Secretary

CLM:c  
Attachment

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series II, Acquisition, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance

Type of Rule:  Legislative  Interpretive  Procedural

Agency Division of Highways

Address Building 5, 1900 Kanawha Boulevard, East, Charleston, West Virginia 25305-0430

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$50,000	\$ --	\$ --	\$ --	\$ --
PERSONAL SERVICES	\$50,000				
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

It is anticipated that the effect of this rule change will be to increase present operating costs by \$50,000 annually. The increase is due to the expected rise in frequency of requests from the public to dispose of Division of Highways property (excess right-of-way).

3. Objectives of this rule:

To comply with the changes to the rules governing the disposition of excess highway right-of-way mandated by the passage of H.R. #4339 effective July 1, 1994. These rule changes grant the Commissioner of Highways the authority to privately negotiate the sale of excess right-of-way at fair market value to abutting landowners. These changes further dictate that the sale of excess right-of-way shall first be offered to the principal abutting landowner.

Rule Title: Series II, Acquisition, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government:

The increased operating costs are expected to be offset by the revenues generated from the sale of the excess right-of-way.

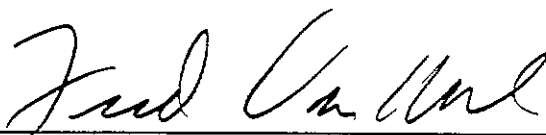
B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens:

The sale of excess right-of-way may result in an increase in the value of individual properties with a potential increase in the owner's property tax assessment.

C. Economic Impact on Citizens/Public at Large.

None.

October 28, 1994



Fred VanKirk  
Deputy Sec. & State Highway Engineer/Commissioner

DATE: OCTOBER 28, 1994

TO: LEGISLATIVE RULE MAKING REVIEW COMMITTEE

FROM: WEST VIRGINIA DEPT. OF TRANSPORTATION, DIVISION OF HIGHWAYS

EMERGENCY RULE TITLE: ACQUISITION, DISPOSAL, LEASE & MANAGEMENT  
OF REAL PROPERTY & APPURTENANT STRUCTURES & RELOCATION ASSISTANCE

1. Date of Filing November 2, 1994

2. Statutory authority for promulgating emergency rule:  
§17-2A-5, 8, 17, 19, 19A & 20

3. Date of filing of proposed legislative rule: \_\_\_\_\_

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?  
This emergency rule amends the current rule, Acquisition, Disposal, Lease and  
Management of Real Property and Appurtenant Structures and Relocation Assistance,  
157CSR2

5. Has the same or similar emergency rule previously been filed and expired?  
No.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.  
Not applicable.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

H.R. #4339, effective date: July 1, 1994

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8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Without the establishment of this emergency rule, all excess right-of-way sales would be halted until passage of the agency approved rule by the WV Legislature (a 15 month or greater delay). The resulting extended delay could result in economic hardship to businesses adjacent to the highway that are seeking to acquire the excess highway right-of-way for expansion. Also, any further delay in the implementation of these rule changes will cause a like delay in the receipt of any increases in property tax assessments and other fees resulting from the sale of excess highway right-of-way.

DATE: OCTOBER 28, 1994

TO: LEGISLATIVE RULE MAKING REVIEW COMMITTEE

FROM: WEST VIRGINIA DEPT. OF TRANSPORTATION, DIVISION OF HIGHWAYS

EMERGENCY RULE TITLE: ACQUISITION, DISPOSAL, LEASE AND MANAGEMENT  
OF REAL PROPERTY AND APPURTENANT  
STRUCTURES AND RELOCATION ASSISTANCE,  
SERIES II

SUMMARY OF RULE CONTENT - This series was promulgated under the authority of West Virginia Code §17-2A-5, 8, 17, 19, 19A and 20. This series establishes rules for the handling of right-of-way matters associated with highway construction.

STATEMENT OF CIRCUMSTANCES REQUIRING CHANGES TO THE RULE - The WV Legislature's passage of H.R. #4339 mandated revisions to the WV Division of Highways' procedures for disposal of excess right-of-way. The revisions prescribed in the referenced bill became effective July 1, 1994. Therefore, the purpose of this filing is to change the subject rules to comply with the requirements of H.R. #4339 in as timely a manner as possible following the effective date.

These rule changes relate to the disposition of excess highway right-of-way. Prior to these changes, sale of the excess right-of-way to the principal abutting landowners was only permitted with respect to former railroad and former turnpike rights-of-way owned by the West Virginia Division of Highways. However, after July 1, 1994, the Division of Highways must first offer any excess right-of-way for sale to principal abutting landowners.

WEST VIRGINIA LEGISLATIVE RULES  
DEPARTMENT OF TRANSPORTATION  
COMMISSIONER OF DIVISION OF HIGHWAYS

TITLE 157

SERIES II

Title: Acquisition, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance

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Section 1. General

1.1. Scope. -- These Interpretive, Legislative and Procedural rules and regulations relate to the acquisition, disposal, lease and management of real property and appurtenant structures, and relocation assistance for persons dislocated by highway construction.

1.2. Authority. -- These rules and regulations are issued under authority of West Virginia Code, ~~Chapter 17, Article 2A, Sections §17-2A-5, 8, 17, 19, 19A, and 20.~~

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Amendment to Former Rule. -- This legislative rule amends the West Virginia Legislative Rule, "Division Department of Highways, Series II, Acquisition, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance", filed ~~December 16, 1982~~ April 25, 1990 and effective ~~January 1, 1983~~ June 1, 1990.

Section 2. Acquisition of Real Property

2.1. General. -- The acquisition of real property, and interests therein, required for the state road program and system, is governed by statute. (Reference, in general, ~~Chapter 17, Article 2A, Sections 8 and 17, Code WV Code §17-2A-8 & 17.~~) Needless to say, the exercise of the sovereign power of eminent domain is controlled by substantive law principles.

Section 3. Sale, Exchange or Lease of Real Property and Structures

3.1. Property Management Unit of Right of Way Division. -- The sale, exchange, or lease of real property or any interest or right therein or any structure thereon, held by the Department of Transportation, Division of Highways, shall be under the control and management of the Property Management Unit of the Right of Way Division of the Division of Highways.

3.2. District Office. -- In each District Office the District Right of Way Agent or his/her assistant shall perform the duties and functions of Property Management relating to the sale, exchange or lease of real property, any interest therein, or structures thereon, within the District.

3.3. Definition: Excess Real Estate. -- Excess real estate, as used in these rules, shall mean any real property or any interest or right therein, which is held by the Division of Highways and which is not necessary or desirable for present or presently foreseeable future state road purposes, or any directly or indirectly related purposes connected with the construction, maintenance or operation of state roads. Any land within the right of way limits or a property required by the Division of Highways shall not be considered excess real property without the prior approval of the ~~Administrator~~ Commissioner of Highways or his/her designee.

(a) 3.4. Temporary Disposition. -- Temporary disposition of real property or any interest therein, not needed for state road purposes, may be either by lease or permit.

(b) 3.5. Permanent Disposition.

(a) Excess real estate may be permanently disposed of by:

- (1) Exchange for other real property needed for any state road purpose.
- (2) Public sale.
- (3) Abandonment. (In the usual instance will apply only to road right of way easement.)
- (4) Private negotiated sale at fair market value to the principal abutting landowners, ~~provided however that this method of permanent disposition of real property shall be available only with respect to former railroad rights of way owned by the Division of Highways and those properties owned by the Division of Highways which were formerly used as turnpike roads.~~

(b) If excess real estate acquired subsequent to December 31, 1973, through voluntary real estate acquisition or exercise of the power of eminent domain is to be sold, it shall be first offered for sale to the principal abutting landowner at a cost equal to the amount paid by the Division of Highways in acquiring the real estate less any applicable reduction attributable to the value of improvements which have been removed, plus an adjusted amount to reflect interest at a rate equal to the increase in the consumer price index for all urban consumers as reported by the United States Department of Labor since the disbursement of funds, provided that the following conditions are met:

(1) A principal abutting landowner for purposes of this subsection is an abutting landowner who is an individual from whom the real estate was acquired or his or her surviving spouse or descendent as defined in West Virginia Code, §42-1-1; and

(2) The primary use of the abutting property shall not have substantially changed since the time of the acquisition. Primary use shall be deemed to have substantially changed if the abutting property's use has changed to or from any of the categories listed below:

- (a) vacant
- (b) residential
- (c) commercial.

If either condition is not met, the property can only be sold as otherwise provided in this section.

(c) An abutting landowner shall be given the right of first refusal whenever the sale of excess property is contemplated under Paragraphs 3.5, (a) (2) or (a) (4) or under Subsection 3.5 (b) of "Acquisition, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance," 157CSR2. Such right of first refusal gives the abutting landowner the right to purchase the excess property as provided in this section. The abutting landowner shall be notified in writing sent by certified mail, return receipt requested, of his/her right of first refusal and that he/she has sixty (60) days to exercise this right. The right of first refusal is exercised by the abutting landowner through his/her remittance of the price determined by the Division of Highways within sixty (60) days of notification. If the abutting landowner does not exercise his/her right of first refusal by remitting the purchase price to the Division of Highways within sixty (60) days, then the property may be otherwise sold. The Division of Highways will recognize and take action upon a release of the right of first refusal. However, the Division of Highways will not recognize or honor a purported transfer of the right of first refusal so as to create a right in a third party.

(d) For purposes of Subsection 3.5, (c) of "Acquisition, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance," 157CSR2, the abutting landowner is an abutting landowner at the time of the sale. Such landowner shall be determined by the Commissioner's employees or agents or staff, or by attorneys or other professionals employed by the Commissioner to make title examinations or other proof to substantiate who the landowner is. In all cases the landowner shall submit proof of his or her ownership by way of certified copy of deed, payment of current year's taxes evidenced by tax receipt, or in the case of heirs who do not have deeds, such proof shall be by way of certified documented records of heirship or intestate ownership. In the absence of any documentation in the official records of County Clerks' offices in the various counties in the State of West

Virginia, the Commissioner may accept duly executed affidavits in support of any alleged ownership by the landowner. Principal abutting landowners for purposes of Paragraph 3.5. (a) (4) of "Acquisition, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance." 157CSR2 shall be determined in the same manner as abutting landowners.

~~3.43.6. Initiating Disposition. -- Disposition of real estate owned or held by the Division of Highways may be initiated by a request of some member or group of the general public.~~

~~(a) Public Request. Any citizen or group of citizens~~ Any person, firm or corporation, in accordance with the provisions of Section 3.3 of "Acquisition, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance." 157CSR2, may make a written request to the District Engineer of the Division of Highways District where the property involved is located, or such request may be made directly to the Commissioner of Highways in Charleston, West Virginia, for the disposition of any parcel or tract of real estate owned or otherwise held by the Division of Highways. Regardless of the manner in which the request is initiated, no real estate owned or held by the Division of Highways shall be sold, offered for sale, or released in any manner until such sale, offer or release has been approved by the District Engineer, the State Highway Engineer and the Commissioner of Highways or his/her designee.

~~3.5-3.7. Finding With Respect to Value as Hiking Trail. -- No real property owned by the Division of Highways shall be transferred, sold or otherwise disposed of unless the Commissioner finds that such property or right-of-way has no significant value to the state as a hiking trail and does not serve as a link between two or more state owned properties, except that any such property that lies within six hundred (600) feet of any dwelling house may be transferred, sold or otherwise disposed of without such a finding by the Commissioner.~~

#### Section 4. Exchange of Real Property

~~4.1. Property Not Necessary for Road Purposes. -- Any real property, or any part thereof, or any interest or right therein, which is deemed by the Commissioner not necessary or desirable for present or presently foreseeable state road purposes may be exchanged for other real property, or any interest or right therein, which is deemed by the Commissioner to be necessary or desirable for present or presently foreseeable state road purposes. (Reference: Chapter 17, Article 2A, Section 19, Code. WV Code §17-2A-19.)~~

~~4.2. Property Necessary for Road Purposes. -- Any real property, or any part thereof, or any interest or right therein, even though it may be necessary or desirable for present or presently foreseeable state road purposes, may be exchanged for other real property, or any interest or right~~

therein, in close proximity thereto which the Commissioner deems of equal or superior useful value for present or presently foreseeable future state road purposes. (Reference: ~~Chapter 17, Article 2A, Section 19, Code~~ WV Code §17-2A-19.)

4.3. Appraisal. -- Any exchange of real property, or any interest therein, must be based on an approved appraisal of each separate property involved, and a determination by the Reviewing Chief Appraiser or his/her designee of the Division of Highways of the fair market value of the properties. The Director of the Right of Way Division shall make a recommendation to the Commissioner as to whether or not the property the Commissioner desires to acquire by exchange is of equal or superior useful value for present or presently foreseeable future state road purposes as the property already owned by the Division.

4.4. Difference in Value. -- The Commissioner of Highways may pay or require payment of any substantial difference in the value of the properties being exchanged and may move or pay the cost of moving buildings, structures, or appurtenances in connection with any such exchange.

#### Section 5. Public Sale of Excess Real Property

5.1. Public sales of excess real property shall be in accordance with Sections 5.2 through 5.5, set out below.

~~5.1~~ 5.2. Auction. -- All excess real property, or any interest or right therein or structure thereon, shall be sold at public auction in the county in which the real property, or the greater part thereof, in value, is located. Such sale shall be made as provided by law and these regulations. Conveyance of real property by the Division of Highways to other public bodies may be handled on a negotiated basis. Such conveyances are subject to the approval of the Board of Public Works. (Reference: ~~Chapter 17, Article 2A, Section 19, Code~~ WV Code §17-2A-19.)

~~5.2~~ 5.3. Published Notice of Auction. -- Notice of public auction of excess real property shall be published on three different days in a newspaper of general circulation in the county in which the real property, or a part thereof, is situate.

(a) The first publication of the notice shall be at least 20 days prior to the date of the public sale.

(b) The notice shall set forth the time, place, date and terms of the proposed sale and a general description of the real property to be offered for sale.

(c) The notice shall clearly state that the Division of Highways reserves the right to reject any or all bids received at a sale.

(d) An affidavit of publication of notice, or a copy of the published notice, shall be obtained and filed with the Right of Way Division Office.

~~5.3~~ 5.4. Conduct of Auctions. -- The District Right of Way Agent shall conduct, or cause to be conducted, the public auction at the time and place specified in the notice. Another person appointed by the District Right of Way Agent, shall act as clerk and record the high bid and the name and address of the high bidder. The clerk shall also receive any monies paid at the time of sale and give a receipt therefor to the highest bidder. The District Right of Way Agent shall promptly forward the results of the auction, a copy of the receipt, a cashier's or certified check payable to the Division of Highways for all money received, and the recommendations of the District Office to the Right of Way Division Office.

~~5.4~~ 5.5. Closing Sales of Real Property. -- If the sale is approved by the Division Right of Way Office and the Commissioner of Highways, an executed deed shall be forwarded to the District Office for completion of the transaction. The District Right of Way Agent shall collect any balance of money due in the form of a cashier's or certified check prior to the delivery of the executed deed. Any monies so received shall be promptly forwarded to the Accounts Receivable Section, Finance Division, Division of Highways, with a copy of the transmittal letter to the Right of Way Division Office. The Property Management Section prepares a funds transmittal letter which is sent, along with the cashier's or certified check, to the Accounts Receivable Section of the Finance Division. The District Right of Way Agent shall advise the Division remit to the Right of Way Division Office in writing as to a copy of the deed with the recordation date of the deed, and the page and book number in which the deed is recorded in the appropriate County Clerk's Office.

~~Section 5A — Disposition of Former Railroad Rights of Way and former Turnpike Roads.~~

~~5A.1 Authority. — In any instance where the West Virginia Division of Highways has or shall hereafter acquire title to property which was formerly used as a railroad right of way, or which was formerly used and designated as a turnpike road, the Commissioner may, subject to the conditions and procedures herein contained, transfer the same by sale on such terms and conditions, including consideration, as the Commissioner shall determine to be fair and reasonable, in accordance with the following procedure.~~

~~(a) — Upon written request by any interested party or on the Commissioner's initiative, the Commissioner shall determine and define those portions of any former railroad or turnpike properties owned by the Division of Highways which are not necessary or desirable for present or presently foreseeable future state road purposes, and shall designate the same for the sale hereunder. If the Commissioner determines that such property is not necessary or desirable for present or presently foreseeable future state road purposes, has no significant value to the state~~

~~as a hiking trail and does not serve as a link between two or more state owned properties, its fair market value will be established by the Commissioner and the abutting property owner will be permitted to purchase said property for the established price.~~

~~(b) For each particular former railroad or turnpike property designated for sale, the Commissioner shall determine and establish (1) the fair market value for each such former railroad right of way or turnpike property designater for sale, and (2) the total square foot area of each former railroad right of way or turnpike property designated for sale.~~

~~(c) Any person or persons owning the entire surface interest or the entire interest in the fee, to a lot, parcel or tract of land abutting on a former railroad right of way property or property formerly used for turnpike roads and now owned by the West Virginia Division of Highways, may, subject to the conditions, restrictions and requirements hereinafter set forth, purchase portions of said property.~~

~~(d) A determination of the eligibility to purchase said property will be made following receipt of an application in writing from such owner(s) identifying the exact location of the property proposed to be purchased and the property owned by the abutting property owner. Evidence of such ownership shall include but not be limited to a certified statement indicating that the property does abut the railroad or turnpike roads together with copies of any deeds, wills, or other instruments conveying right of title unto such property.~~

~~(e) Any properties abutting such railroad or turnpike roads sold pursuant to these regulations shall embrace an area fronting the entire length of the abutting property owner's adjacent property and one half the width of the former railroad right of way or turnpike road and terminating at both ends by lines perpendicular to centerline or radially therefrom.~~

## Section 6. Disposition of Structures

6.1. Methods of Disposing of Structures. -- Structures which are not needed for road purposes but which are situated on land required for present or future contemplated road needs shall be disposed of by the following methods:

- (a) Retention by former owner as a part of the consideration of acquisition of the land; or
- (b) Public sale; or
- (c) Letting a demolition contract; or

- (d) Giving to a local public agency; or
- (e) Removal by Division of Highways maintenance forces; or
- (f) Inclusion in the prime construction contract.

6.2. Retention by Owner. -- Property owners may be permitted to retain improvements for clearance from the right of way. Such improvements must be properly removed within the time agreed to between the property owner and the Commissioner of Highways, and if not so removed, the Commissioner of Highways, shall take proper action to clear the right of way of any such improvements.

6.3. Public Sale of Structures. -- The sale of improvements upon state road property shall be at public auction as provided by law and these regulations. (Reference: ~~Chapter 17, Article 2A, Section 19, Code: WV Code §17-2A-19.~~)

(a) Notice of Auction - The District Right of Way Agent shall cause a notice of the proposed sale of structures to be published during at least two different weeks in a newspaper of general circulation in the county in which the structures are located or as otherwise approved by the Director of the Right of Way Division. The first such notice shall be published at least 20 days prior to date of the proposed public auction.

(b) Form of Notice - Notice of sale of structures shall set forth the time, place, and terms of the proposed sale. The notice shall clearly state that the Commissioner of Highways reserves the right to reject any and all bids. The notice shall describe the structures to be sold, indicate the location of the structures, set forth the terms of payment, and inform prospective bidders where they may obtain a copy of the specifications for removal and clearance of the structures and terms of the proposed bill of sale.

(c) Proof of Publication - An affidavit of publication of the notice shall be obtained and filed with the Right of Way Division Office.

(d) Auction Procedure - At the time and place specified in the notice, the District Right of Way Agent, or a person designated by him, shall first advise prospective bidders concerning the terms under which the improvements may be sold. Terms discussed include those concerning payment to the Division of Highways, the posting of a performance bond and rules governing the removal of the improvements and cleanup. After completing the discussion concerning the terms, the auctioneer may commence taking bids.

Only after all such items have been read shall the auction commence. Another person appointed by the District Right of Way Agent, shall act as clerk to record the high bid and the name and address of the high bidder on each property. The clerk shall also receive any monies paid at the time of the sale and give a receipt therefor to the high bidder. The clerk shall retain two copies of each such receipt.

(e) Recommendation of Approval - If time is of the essence, the District Office may request by telephone an advance indication as to whether the high bid will be acceptable and inform the bidder that contingent upon final approval of the bill of sale, he may make arrangements to remove the improvement. However, actual work of removing the structure cannot begin until such final approval has been given by the Director of the Right of Way Division. If such advance notice is given the high bidder, he shall be clearly advised that the sale is still contingent upon approval by the Director of the Right of Way Division, and that the advance notice does not bind the Division of Highways. The District Right of Way Agent shall immediately forward the bill of sale, results of the auction, and a copy of the receipt to the Division Office with the District Right of Way Agent's recommendations.

(f) Bill of Sale - The bill of sale, in quadruplicate, shall be completed and signed by the purchaser on the day of the auction for transmittal to the Division Office with the recommendations of the District Right of Way Agent.

(g) Approval and Closing of Sale - If the sale is approved by the Director of the Right of Way Division, the District Office will notify the successful bidder by giving him the fully executed bill of sale (original), and shall obtain any balance due by certified or cashier's check and receive any required performance bond.

(h) Removal of Structures - All improvements shall be removed from the state right of way by the buyer, at his/her own expense, in accordance with the terms of the bill of sale, or any extension of time authorized in writing by the Director of the Right of Way Division. If such improvements are not so removed, title thereto shall revert to the Division of Highways and all sums paid pursuant to said bill of sale shall be forfeited as liquidated damages.

6.4. Demolition Contract. -- Removal of structures by demolition contract shall be solicited by public advertisement. Structures may be removed by demolition contract. Such contracts are subject to the provisions of Chapter 17-2A, Series III entitled "Construction and Reconstruction of State Roads," of these regulations 157CSR3.

Division of Highways  
Leg. Rule, 17-2A  
Series II, Sec. 6.5

6.5. Removal of Structures From the Right of Way by Fire Department. -- Structures which have been offered for sale and on which there were not acceptable bids may be removed by local fire departments after approval of the Director or Assistant Director of the ~~Division~~ Right of Way ~~Office~~ Division.

6.6. Removal by Maintenance Forces. -- Removal by maintenance forces may be made after bids have been taken and there is no acceptable bid. However, maintenance forces may make removal in other instances prior to the taking of bids upon prior approval by the Director of the Right of Way Division and when such removal by maintenance forces is deemed to be in the public interest.

6.7. Removal by Contractor. -- Structures may be left on the right of way for the prime contractor to remove when in a particular case it is more practicable or in the public interest ~~se~~ to do so.

Section 7. Persons Ineligible to Purchase Real Property or Structures from the Division of Highways

7.1. Employees of the Division of Highways. -- No employee of the Division of Highways, or his or her immediate family, shall be eligible to bid, either directly or indirectly on any real property or structure offered for sale by the Division of Highways.

Section 8. Lease of Division of Highways' Property

8.1. General. -- In all instances where property or any interest or right therein, including airspace or any part thereof, is being held by the West Virginia Division of Highways, it may be leased pursuant to the provisions of ~~Chapter 17, Article 2A, Sections 19 and 19a of the Code~~ West Virginia Code §17-2A-19 & 19A. Such leases will be made in accordance with the following regulations.

8.2. Prior Approval. -- Prior approval of such lease must be obtained from the District Engineer and Commissioner of Highways except where the lease is a temporary continuation of an existing occupancy at the time of the Division of Highways acquisition and does not interfere with right of way clearance.

8.3. Appraisal. -- Rentals shall be based on a written approval and determination of fair rental value approved by the Chief ~~Reviewing~~ Appraiser or his/her designee for the Division of Highways.

8.4. Continuation of Existing Lease. -- When a property acquired by the Division of Highways is subject to an existing lease or tenancy, the District Right of Way Agent, with the approval of the Director of the Right of Way Division, may continue such existing lease at the existing rental, provided proper arrangements are made to vacate the property promptly, in advance of its need for highway construction.

8.5. Owner-Occupant Retaining Possession. -- Where property is acquired and the owner-occupant is permitted by the Division of Highways to retain possession in excess of the time allotted under the option or 30 days after closing, whichever is greater, the former owner-occupant may rent the property or interest therein at a fair rental determined by the Chief Appraiser or his/her designee, provided satisfactory arrangements are made for vacating the property prior to its need for highway purposes.

8.6. Rental Principles. -- Division of Highways property which is leased to others, except to an owner-occupant or tenant at time of acquisition, shall be leased in accordance with the following principles:

(a) The Chief ~~Reviewing~~ Appraiser or his/her designee shall establish the fair rental value.

(b) Each prospective tenant shall be required to execute a lease agreement which has been approved by the Legal Division.

(c) All rent shall be due and payable on the first day of each rental period.

(d) All lease agreements shall be in effect for an agreed term and may provide for termination upon thirty (30) days' written notice by either party.

(e) The Division shall make no repairs or alterations without written authorization from the Director of the Right of Way Division.

(f) The Division of Highways assumes no liability for any utility bills, sewer charges, or trash disposal costs.

(g) No tenant shall be allowed to occupy Division of Highways property until he has paid first to the Division of Highways (by certified or cashier's check or money order) one (1) month's rent in advance.

(h) No employee of the Division of Highways shall occupy Division of Highways property without authorization from the Commissioner of Highways.

Division of Highways  
Leg. Rule, 17-2A  
Series II, Sec. 8.6

(i) The District Property Manager shall collect the first rental payments only. All future rents shall be paid directly by the tenant to the Accounts Receivable ~~Unit~~ Section, Finance Division of the Division of Highways.

(j) Occupants of properties acquired by the Division of Highways may remain in possession of such properties as tenants of the Division on a preferential basis.

#### Section 9. Rental of Property from Other Persons

9.1. General. -- The Division of Highways may lease real property from other persons upon the recommendation in writing of the District Engineer and the Director of the Right of Way Division and with the approval of the Commissioner of Highways. If the property to be rented is for use of a Headquarters Division, the approval of the District Engineer is not required. When so recommended and approved, the amount of the rental shall be approved in writing by the Chief Appraiser or his/her designee. (Reference: ~~Chapter 17, Article 2A, Section 17, Code WV Code §17-2A-17.~~)

9.2. Office Space Leases. -- Pursuant to the provisions of ~~Chapter 5A, Article 5 of the Code of West Virginia Code §5A-5. et seq.,~~ as amended, office space is leased for the Division of Highways by the Commissioner of ~~Finance and Administration~~ upon receipt of proper requisition from the Commissioner of Highways.

#### Section 10. Damage by Owner or Occupant

10.1. General. -- The owner or occupant of real property acquired by the Division of Highways and who continues to do so by permission after the date of acquisition shall be responsible for all damages to or loss of the improvements which result from the negligent or willful actions of such owner or occupant.

10.2. Adjustment of Damages. -- If the owner or occupant does not pay for such damages, the Chief ~~Reviewing~~ Appraiser, or his/her designee, shall determine the value of the missing or damaged property and make appropriate adjustment in settlement price. If satisfactory adjustment is not made, the Legal Division shall take whatever action is necessary to protect the State's interest.

Section 11. Relocation Assistance

11.1. Incorporation of Federal Regulations. --

(a) Federal-Aid Highway Projects - By this Legislative rule and pursuant to the authority of ~~Chapter 17, Article 2A, Section 20, and of Chapter 54, Article 3, Section 3 of the Official Code of West Virginia Code §§17-2A-20 & 54-3-3, 1931, as amended,~~ the West Virginia Division of Highways adopts as its own, the provisions, procedures and regulations promulgated by the Federal Highway Administration of the United States ~~Division~~ Department of Transportation, as the same appear in the Federal Register and are reproduced for convenient reference as ~~Title 23, Part 740, in the Code of Federal Regulations, 23 CFR 740,~~ a copy of which title is submitted herewith.

(b) State Highway Projects - By this Legislative rule and pursuant to the authority of ~~Chapter 17, Article 2A, Section 20 of the Official Code of West Virginia Code §17-2A-20, 1931, as amended,~~ the West Virginia Division of Highways adopts as its own, the provisions, procedures and regulations promulgated by the Federal Highway Administration of the United States ~~Division~~ Department of Transportation, insofar as they define terms, and relate to advisory assistance and relocation payments, as the same appear in the Federal Register and are reproduced for convenient reference as ~~Title 23, Part 740, in the Code of Federal Regulations 23 CFR 740.~~

11.2. Forms. -- By this Procedural rule, the West Virginia Division of Highways adopts the hereinafter identified forms, a copy of each of which is attached hereto. The applicable form or forms must be signed by claimant or others, where appropriate, as a prerequisite to receiving the payment described therein. Forms RW 12.01B, RW 12.04, RW 12.04A, ~~RW 12.04B,~~ RW 12.04E, RW 12.06, RW 12.06B, RW 12.07, ~~RW 12.07A, RW 12.07B,~~ RW 12.13 (Owner), RW 12.13 (Tenant), RW 12.14A, RW 12.16, RW 13.11, and RW 13.12.

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

CERTIFIED  
STATEMENT OF RENT  
FORM RW 12.01B  
REV. 4/1/94

DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_

FEDERAL PROJECT \_\_\_\_\_

STATE PROJECT \_\_\_\_\_

=====

OCCUPANT \_\_\_\_\_ SPOUSE \_\_\_\_\_

ADDRESS \_\_\_\_\_

=====

I certify that:

I have lived in this unit at the above address for \_\_\_\_\_ months;

I moved into this unit on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_;

My monthly rent is \$\_\_\_\_\_, which includes:

Income: \$ \_\_\_\_\_ per \_\_\_\_\_  
Verified by: Tax Return, Pay Stubs  
(Attached - circle one)

_____ Gas	\$ _____	per month average est.
_____ Water	\$ _____	per month average est.
_____ Electric	\$ _____	per month average est.
_____ Sewer	\$ _____	per month average est.
_____ Furniture	\$ _____	per month average est.
_____ Other	_____	_____

TO THE BEST OF MY KNOWLEDGE ALL THE ABOVE INFORMATION IS TRUE AND CORRECT.

\_\_\_\_\_  
Occupant

\_\_\_\_\_  
Date

=====

Above information verified:

(Check one) \_\_\_\_\_ Contacted landlord (telephone, in person) (Circle one)

\_\_\_\_\_ Observed rent receipts

I certify that I have verified the above rental information on \_\_\_\_\_  
Date

\_\_\_\_\_  
Agent

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

RELOCATION CLAIM  
RESIDENTIAL

DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_

FORM RW 12.04, REV. 4/1/94

FEDERAL PROJECT \_\_\_\_\_

STATE PROJECT \_\_\_\_\_

=====

At or soon after the beginning of negotiations to acquire the real property I occupy, a representative of the West Virginia Department of Transportation, Division of Highways personally contacted me, gave me a Relocation Brochure and explained relocation services and eligibility requirements necessary to qualify for relocation payments.

I certify that my family and I were in continuous occupancy of the subject property for a period of at least \_\_\_\_\_ 90 days or \_\_\_\_\_ 180 days prior to the beginning of negotiations to acquire the property; that the family unit numbered \_\_\_\_\_ persons; and that the family occupied \_\_\_\_\_ rooms of living area (Mobile Homes - Sq. Ft. \_\_\_\_\_) plus \_\_\_\_\_ rooms of storage area consisting of \_\_\_\_\_ . I further certify that all my personal property was/will be moved to \_\_\_\_\_ , \_\_\_\_\_

and the move was/will be completed on \_\_\_\_\_, 19\_\_\_\_; that the replacement dwelling appears to be/will be made decent, safe and sanitary; and I understand and agree that the inspection or inspections made of the premises by the Division of Highways was made solely for the purpose of determining my eligibility for replacement housing payments under applicable laws and is not a representation for any other purpose, and I further understand and agree that the Division of Highways does not warrant or guarantee the real property; and that I now/will qualify to receive and that I agree with the relocation payments in the amounts and categories listed below:

Moving Costs \$ \_\_\_\_\_ Costs Incident To Purchase \$ \_\_\_\_\_  
Replacement Housing \$ \_\_\_\_\_ Interest Differential \$ \_\_\_\_\_

DATE \_\_\_\_\_ CLAIMANT \_\_\_\_\_

I request payment to be mailed to: \_\_\_\_\_ Spouse \_\_\_\_\_

=====

I certify that negotiations to acquire the subject property began on \_\_\_\_\_, 19\_\_\_\_; that the premises occupied by claimant qualify as \_\_\_\_\_ rooms (Mobile Homes - Sq. Ft. \_\_\_\_\_) eligible for reimbursement of Moving Costs; that his personal property has been/will be removed; that the replacement housing appears to be/will be decent, safe and sanitary; and that the amounts claimed by the Claimant are true and correct.

DATE \_\_\_\_\_ DISTRICT AGENT \_\_\_\_\_

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

ANNUAL INSTALLMENT CLAIM  
FORM RW 12.04A, REV. 4/1/94

DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_  
FEDERAL PROJECT \_\_\_\_\_  
STATE PROJECT \_\_\_\_\_

=====

INSTRUCTIONS

Second Payment If this is the second installment, circle the word First in the fourth line; the word One in the fifth line; and the word Second as Annual Installment due.

Third Payment If this is the third installment, circle the word Second in the fourth line; the word Two in the fifth line; and the word Third as Annual Installment due.

Fourth Payment If this is the fourth installment, circle the word Third in the fourth line; the word Three in the fifth line; and the word Fourth as Annual Installment due.

=====

I, \_\_\_\_\_, Spouse \_\_\_\_\_

certify that: My total Replacement Housing Determination was \$ \_\_\_\_\_;

I was informed that payment would be made in Four Equal Installments; I have received the (First - Second - Third) Annual Installment Payment of \$ \_\_\_\_\_; it has been at least (One - Two - Three) year(s) since I moved from the original location; I now occupy decent, safe and sanitary housing at \_\_\_\_\_

Street

\_\_\_\_\_ / \_\_\_\_\_  
City

State and Zip Code

and I now qualify for the (Second - Third - Fourth) Annual Installment Payment of

\$ \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_.  
Date

\_\_\_\_\_  
Claimant

=====

APPROVED: \_\_\_\_\_  
District Agent Date

RETURN TO: West Virginia Department of Transportation  
Division of Highways - Right of Way

\_\_\_\_\_  
Street

\_\_\_\_\_  
City

State and Zip Code

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

QUARTERLY INSTALLMENT CLAIM  
FORM RW 12.04AA, REV. 4/1/94

DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_  
FEDERAL PROJECT \_\_\_\_\_  
STATE PROJECT \_\_\_\_\_

=====

I, \_\_\_\_\_, certify that: My total Replacement Housing  
Determination was \$ \_\_\_\_\_; I was informed that payment would be made in  
Sixteen Equal Quarterly Installments; I have previously received \_\_\_\_\_ payments  
and I now qualify for the \_\_\_\_\_ Installment Payment in the amount of \$ \_\_\_\_\_;  
I now occupy decent, safe and sanitary housing at:

\_\_\_\_\_  
Street City State and Zip Code

\_\_\_\_\_  
Claimant Date

=====

Landlord Certification

I certify that as of this date \_\_\_\_\_  
Occupant's Name  
occupies a dwelling unit located at \_\_\_\_\_  
Address  
for which he pays \$ \_\_\_\_\_ per month rent.

\_\_\_\_\_  
District Agent Date

\_\_\_\_\_  
Address of Landlord

=====

APPROVED: \_\_\_\_\_  
District Agent Date

RETURN TO: West Virginia Department of Transportation  
Division of Highways - Right of Way

\_\_\_\_\_  
Street

\_\_\_\_\_  
City State and Zip Code

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

HARDSHIP RELOCATION CERTIFICATION  
PRE-DRAW CHECK RECEIPT  
FORM RW 12.04E, REV. 8/1/94

DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_  
PROJECT \_\_\_\_\_

=====  
Occupant \_\_\_\_\_ Spouse \_\_\_\_\_  
=====

Warrant Number(s)

Name(s)

Amount(s)

Type Claim

I acknowledge receipt of the above listed State Warrant(s) on the \_\_\_\_\_ day of

\_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

Warrant(s) delivered by \_\_\_\_\_  
Agent

=====

I certify that all requirements for this payment have been fulfilled and that the  
relocatee moved his personal property from the project \_\_\_\_\_  
Date

\_\_\_\_\_  
Date District Right of Way Agent

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

RELOCATION CLAIM  
BUSINESS, FARM, NONPROFIT  
FORM RW 12.06, REV. 4/1/94

DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_

FEDERAL PROJECT \_\_\_\_\_

STATE PROJECT \_\_\_\_\_

=====  
(Circle One)

Business

Farm Operation

Nonprofit Organization

I, the undersigned claimant, certify that I was in occupancy at the time of initiation of negotiations to acquire the real property as designated above and that all my personal property has been/will be moved from the captioned parcel to:

\_\_\_\_\_  
Street City State and Zip Code

as of \_\_\_\_\_, 19\_\_\_\_, and that I am now/will be eligible for reimbursement of moving costs and hereby make claim in the amount of \$\_\_\_\_\_.

I further certify that a representative of the West Virginia Department of Transportation, Division of Highways delivered a Relocation Brochure and explained moving costs to me, including my rights to "Appeal".

\_\_\_\_\_  
Date Claimant (Company Name)

By \_\_\_\_\_ Title \_\_\_\_\_

Payment to be directed to:

\_\_\_\_\_  
Street City Street and Zip Code

=====  
I certify that negotiations for this parcel were initiated (date) \_\_\_\_\_  
and that I have inspected or caused to be inspected the premises of the above named claimant and that his personal property has been/will be removed as stated and that the sum claimed by him for reimbursement of moving costs is true and correct.

\_\_\_\_\_  
Date District Right of Way Agent



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

ESTIMATE - BID  
FORM RW 12.07, REV. 4/1/94

DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_

FEDERAL PROJECT \_\_\_\_\_

STATE PROJECT \_\_\_\_\_

=====

(Circle One)

Residential                  Business                  Farm Operation                  Nonprofit Organization

Claimant (dba) \_\_\_\_\_ Distance of Move \_\_\_\_\_

Address (Old Location) \_\_\_\_\_

Address (New Location) \_\_\_\_\_

DESCRIPTION:

1. Residential (Residential Personalty, Tools, Lumber, Junked Cars, etc.)
2. Business (Service Station, Grocery, etc.) \_\_\_\_\_
3. Farm (Dairy, Produce, etc.) \_\_\_\_\_
4. Nonprofit (Church, School, etc.) \_\_\_\_\_

SEE ATTACHED DOCUMENTATION

The estimated cost to move the personalty (list attached) to the new address is

\$ \_\_\_\_\_

Moving Company Name \_\_\_\_\_

By Estimator \_\_\_\_\_ Date \_\_\_\_\_

\*Estimator's Fee \$ \_\_\_\_\_ Approved For Fee Purposes

\_\_\_\_\_  
District Agent

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

REPLACEMENT PAYMENTS - OWNER DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_

FORM RW 12.13 (Owner) FEDERAL PROJECT \_\_\_\_\_

REV. 4/1/94 STATE PROJECT \_\_\_\_\_

=====

OCCUPANT \_\_\_\_\_

This is to inform you that the West Virginia Department of Transportation, Division of Highways has authorized a supplemental housing payment offer to you. This amount is offered to you provided you meet all eligibility requirements of a 180 day owner occupant as outlined in the "Relocation Brochure". If you do not have a brochure, please request one immediately.

Based on information assembled by this office, you are entitled to an amount up to \$ \_\_\_\_\_ additional dollars as a replacement housing payment provided you spend the fair market value of \$ \_\_\_\_\_, plus the replacement housing supplement, on a decent, safe and sanitary replacement that cost at least \$ \_\_\_\_\_. The amount of the replacement housing payment is based on a comparable dwelling located at \_\_\_\_\_.

This offer is subject to the condition that you meet all requirements of the Relocation Assistance and Real Properties Acquisition Policy Act of 1970 and its Amendments, which is summarized in the Relocation Brochure for further information about the exact procedure for payment computation. Before any payment can be made, you must be able to fully document your eligibility.

Personnel at our office are ready to assist you should you have any questions or need assistance.

\_\_\_\_\_  
Receipt Acknowledged

\_\_\_\_\_  
Date

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

REPLACEMENT PAYMENTS - TENANT DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_

FORM RW 12.13 (Tenant)  
REV. 4/1/94

FEDERAL PROJECT \_\_\_\_\_

STATE PROJECT \_\_\_\_\_

=====

OCCUPANT \_\_\_\_\_

This is to inform you that the West Virginia Department of Transportation, Division of Highways has authorized a rental subsidy offer to you. This amount is offered to you provided you meet all eligibility requirements as outlined in the "Relocation Brochure". If you do not have a brochure, please request one immediately.

Based on information assembled by this office, you will incur a higher monthly rental fee to rent a similar dwelling to the one you now occupy. The Division of Highways will offer you a total lump-sum payment of \$\_\_\_\_\_ if you rent and occupy a decent, safe and sanitary replacement dwelling costing at least \$\_\_\_\_\_ per month including estimated utilities; and provided you meet all other eligibility requirements. The amount of this payment is based on a comparable located at \_\_\_\_\_.

If you elect to purchase a decent, safe and sanitary replacement instead of renting one, you are eligible for up to \$5,250.00 to help pay the downpayment and closing costs, provided you meet all other eligibility requirements.

Please refer to your Relocation Brochure for further information about the exact procedure for payment computation. Before any payment can be made, you must be able to fully document your eligibility. Personnel at our office are ready to assist you should you have any questions or need assistance.

\_\_\_\_\_  
Receipt Acknowledged

\_\_\_\_\_  
Date

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

INTEREST DIFFERENTIAL MORTGAGE DATA  
FORM RW 12.14A, REV. 4/1/94

DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_

FEDERAL PROJECT \_\_\_\_\_

STATE PROJECT \_\_\_\_\_

=====

Claimant \_\_\_\_\_ Spouse \_\_\_\_\_

Address Old Property \_\_\_\_\_

Address New Property \_\_\_\_\_

=====

TO BE COMPLETED BY MORTGAGEE

MORTGAGE INFORMATION  
(Old Address)

MORTGAGE INFORMATION  
(New Address)

- 1. Amount of Loan \$ \_\_\_\_\_
- 2. Date of Mortgage \_\_\_\_\_
- 3. Interest Rate \_\_\_\_\_%
- 4. Principal and Interest Payment (do not include taxes and insurance) \$ \_\_\_\_\_/Mo.
- 5. Date This Loan Paid Off \_\_\_\_\_
- 6. Amount of Remaining Principal Balance at Time of Mortgage Payoff \$ \_\_\_\_\_
- 7. Remaining Term (remaining number of monthly payments) at Date of Payoff \_\_\_\_\_

- 1. Amount of Loan \$ \_\_\_\_\_
- 2. Date of Mortgage \_\_\_\_\_
- 3. Interest Rate \_\_\_\_\_%
- 4. Principal and Interest Payment (do not include taxes and insurance) \$ \_\_\_\_\_/Mo.
- 5. Term of New Loan \_\_\_\_\_/Yrs.
- 6. Origination Fee or Loan Service Charge Charged Purchaser (if applicable) \$ \_\_\_\_\_

I certify that the above information is true and correct.

\_\_\_\_\_  
Mortgage Company or Mortgagee

\_\_\_\_\_  
By

\_\_\_\_\_  
Date

=====

Information Obtained By \_\_\_\_\_

Date \_\_\_\_\_

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION - DIVISION OF HIGHWAYS

REQUEST FOR RELOCATION  
APPEAL HEARING  
FORM RW 12.16, REV. 4/1/94

DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_

FEDERAL PROJECT \_\_\_\_\_

STATE PROJECT \_\_\_\_\_

=====

Date \_\_\_\_\_

Gentlemen:

I, \_\_\_\_\_, Spouse \_\_\_\_\_

am dissatisfied with the determination of payment of eligibility for (Moving Costs,  
Replacement Housing or Mortgage Interest or Incidental Costs)

\_\_\_\_\_ and wish to appeal for the  
following reason: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

I, (occupy or occupied) \_\_\_\_\_ property at

\_\_\_\_\_ in \_\_\_\_\_  
Street City

I, understand there will be a preliminary hearing held at the District level. Will you  
inform me as to a convenient time and place to discuss my appeal?

\_\_\_\_\_  
Date

\_\_\_\_\_  
Claimant

Form RW 13.11  
 Rev. 10/12/90  
 CLOSING STATEMENT AND  
 CLAIM FOR REIMBURSEMENT  
 Expenses incidental to transfer  
 of property to the  
 WEST VIRGINIA DEPARTMENT OF  
 TRANSPORTATION, DIVISION OF HIGHWAYS

Parcel No.	Project No.
District	County

Land or interest in land sold by

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

	PAID BY SELLER	DISTRIBUTION OUT OF STATE CHECK
1. LIENS AND ENCUMBRANCES:		
(A.) _____	\$ _____	\$ _____
(B.) _____	\$ _____	\$ _____
(C.) _____	\$ _____	\$ _____
(D.) _____	\$ _____	\$ _____
2. RECORDING FEES:		
_____	\$ _____	\$ _____
3. EXPENSES SIMILAR TO RECORDING FEES AND TRANSFER TAXES: (Explain)		
_____	\$ _____	\$ _____
4. PENALTY COSTS FOR PREPAYMENT OF QUALIFIED MORTGAGE OR DEED OF TRUST: (Date of instrument, mortgagee, where recorded)		
_____	\$ _____	\$ _____
5. 19__ REAL PROPERTY TAXES . . . . .	\$ _____	\$ _____
6. PRORATED REAL PROPERTY TAXES		
(Amount F on reverse side of this form)	\$ _____	
7. NET BALANCE TO PAYEES . . . . .		\$ _____
8. TOTAL GROSS CONSIDERATION . . . . .		\$ _____
9. TOTAL REIMBURSABLE EXPENSES CLAIMED (Sum of Items 2, 3, 4 and 6)		\$ _____

**IMPORTANT:** The law provides that the property owner shall be reimbursed for the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting of title in the State, or the effective date of the possession of the property by the State, whichever is earlier.

Accordingly, if after the date of this Claim for Reimbursement you are required to pay and do pay real property taxes which constitute a lien upon this parcel but which were not then due and payable, you may claim reimbursement for such pro rata portion by presenting tax receipts to the Right of Way Division and by signing an appropriate claim form that will be provided at your request.

The undersigned, hereinafter referred to as "Seller", regardless of number, acknowledges receipt of the net balance shown herein, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and certifies that the herein enumerated items of expense (Items 2, 3, 4 and 6) were actually incurred and paid by Seller, and requests that payment of the total reimbursable expenses claimed herein in the amount of \$\_\_\_\_\_ \* be made to \_\_\_\_\_ at the following address:

\_\_\_\_\_  
(Seller) \_\_\_\_\_ (Seller)  
\_\_\_\_\_  
(Seller) \_\_\_\_\_ (Seller)

The undersigned hereby certifies that this Closing Statement and Claim for Reimbursement is true and correct and that the Seller has received a copy of same.

\_\_\_\_\_  
Attorney for the West Virginia  
Department of Transportation,  
Division of Highways

\*Seller may waive claim for reimbursement by writing "NO CLAIM" in the space provided at Item 9 for amount claimed. This will not constitute a waiver of Seller's right to claim reimbursement for a pro rata portion of taxes subsequently paid.

PRORATED REAL PROPERTY TAXES: (Enter amount F in box on Page 1 (Item 6).)

- A. 19\_\_\_\_ Real Property Taxes (actual amount paid, less interest and penalties, if any)  
\$ \_\_\_\_\_
- B. Whole taking  Partial taking  (Check One)
- C. If a partial taking, adjust assessment to reflect amount of tax attributable to part taken and enter  
\$ \_\_\_\_\_
- D. Per week assessment (divide amount opposite A or C, whichever is less, by 52)  
\$ \_\_\_\_\_
- E. Number of weeks remaining in calendar year from date of vesting of title  or date of possession , whichever is earlier (Check One)  
\_\_\_\_\_
- F. Product of per week assessment and number of weeks  
\$ \_\_\_\_\_

APPROVED \_\_\_\_\_  
District Right of Way Agent

\_\_\_\_\_  
Director, Right of Way Division

APPROVED \_\_\_\_\_  
Right of Way Attorney

DATE \_\_\_\_\_

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION,  
DIVISION OF HIGHWAYS

Form RW 13.12  
Rev. 10/12/90  
SUPPLEMENTAL CLAIM FOR REIMBURSEMENT  
Expenses incidental to transfer  
of property to the WEST VIRGINIA  
DEPARTMENT OF TRANSPORTATION,  
DIVISION OF HIGHWAYS

Parcel No.	Project No.
District	County

Date of Claim \_\_\_\_\_

Title to the designated parcel, formerly owned by the undersigned, hereinafter designated as "Claimant", regardless of number, was acquired by the West Virginia Department of Transportation, Division of Highways (formerly The State Road Commission of West Virginia and the West Virginia Department of Highways) on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, (insert date of execution and delivery of deed or date of entry of court order, whichever is applicable).

Real property taxes for the calendar year \_\_\_\_\_ constituted a lien against said parcel on said date but were not then due, ascertainable or payable.

Claimant thereafter paid said taxes in the amount of \$\_\_\_\_\_ and is entitled to be reimbursed on a pro rata basis for that portion of taxes paid that are attributable to the property acquired by the West Virginia Department of Transportation, Division of Highways, as aforesaid.

CALCULATION OF CLAIM:

- 19\_\_\_\_ Real Property Taxes (actual amount paid, less interest and penalties, if any)  
\$\_\_\_\_\_
- Whole taking  Partial taking  (Check One)
- If a partial taking, adjust assessment to reflect amount of tax attributable to part taken and enter  
\$\_\_\_\_\_
- Per week assessment (divide amount opposite 1 or 3, whichever is less by 52)  
\$\_\_\_\_\_
- Number of weeks remaining in calendar year from date of vesting of title or date of possession, whichever is earlier  
\_\_\_\_\_
- Product of per week assessment and number of weeks

\$ \_\_\_\_\_  
(Amount of Claim)

Claimant requests that payment be made to \_\_\_\_\_  
whose address is \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_(Claimant) \_\_\_\_\_(Claimant)  
\_\_\_\_\_(Claimant) \_\_\_\_\_(Claimant)  
\_\_\_\_\_(Claimant) \_\_\_\_\_(Claimant)

APPROVED:

\_\_\_\_\_  
Right of Way Attorney Director, Right of Way Division

Date \_\_\_\_\_

Form RW 13.11  
 Rev. 10/12/90  
 CLOSING STATEMENT AND  
 CLAIM FOR REIMBURSEMENT  
 Expenses incidental to transfer  
 of property to the  
 WEST VIRGINIA DEPARTMENT OF  
 TRANSPORTATION, DIVISION OF HIGHWAYS

Parcel No.	Project No.
District	County

Land or interest in land sold by

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

	PAID BY SELLER	DISTRIBUTION OUT OF STATE CHECK
1. LIENS AND ENCUMBRANCES:		
(A.) _____	\$ _____	\$ _____
(B.) _____	\$ _____	\$ _____
(C.) _____	\$ _____	\$ _____
(D.) _____	\$ _____	\$ _____
2. RECORDING FEES:		
_____	\$ _____	\$ _____
3. EXPENSES SIMILAR TO RECORDING FEES AND TRANSFER TAXES: (Explain)		
_____	\$ _____	\$ _____
4. PENALTY COSTS FOR PREPAYMENT OF QUALIFIED MORTGAGE OR DEED OF TRUST: (Date of instrument, mortgagee, where recorded)		
_____	\$ _____	\$ _____
5. 19____ REAL PROPERTY TAXES . . . . .	\$ _____	\$ _____
6. PRORATED REAL PROPERTY TAXES		
(Amount F on reverse side of this form)	\$ _____	
7. NET BALANCE TO PAYEES . . . . .		\$ _____
8. TOTAL GROSS CONSIDERATION . . . . .		\$ _____
9. TOTAL REIMBURSABLE EXPENSES CLAIMED (Sum of Items 2, 3, 4 and 6) <div style="text-align: right;">\$ _____</div>		

IMPORTANT: The law provides that the property owner shall be reimbursed for the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting of title in the State, or the effective date of the possession of the property by the State, whichever is earlier.

Accordingly, if after the date of this Claim for Reimbursement you are required to pay and do pay real property taxes which constitute a lien upon this parcel but which were not then due and payable, you may claim reimbursement for such pro rata portion by presenting tax receipts to the Right of Way Division and by signing an appropriate claim form that will be provided at your request.

The undersigned, hereinafter referred to as "Seller", regardless of number, acknowledges receipt of the net balance shown herein, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and certifies that the herein enumerated items of expense (Items 2, 3, 4 and 6) were actually incurred and paid by Seller, and requests that payment of the total reimbursable expenses claimed herein in the amount of \$ \_\_\_\_\_ \* be made to \_\_\_\_\_ at the following address:

\_\_\_\_\_  
(Seller) (Seller)  
\_\_\_\_\_  
(Seller) (Seller)

The undersigned hereby certifies that this Closing Statement and Claim for Reimbursement is true and correct and that the Seller has received a copy of same.

\_\_\_\_\_  
Attorney for the West Virginia  
Department of Transportation,  
Division of Highways

\*Seller may waive claim for reimbursement by writing "NO CLAIM" in the space provided at Item 9 for amount claimed. This will not constitute a waiver of Seller's right to claim reimbursement for a pro rata portion of taxes subsequently paid.

PRORATED REAL PROPERTY TAXES: (Enter amount F in box on Page 1 (Item 6).)

A. 19\_\_\_\_ Real Property Taxes (actual amount paid, less interest and penalties, if any)

\$ \_\_\_\_\_

B. Whole taking  Partial taking  (Check One)

C. If a partial taking, adjust assessment to reflect amount of tax attributable to part taken and enter

\$ \_\_\_\_\_

D. Per week assessment (divide amount opposite A or C, whichever is less, by 52)

\$ \_\_\_\_\_

E. Number of weeks remaining in calendar year from date of vesting of title  or date of possession , whichever is earlier (Check One)

F. Product of per week assessment and number of weeks

\$ \_\_\_\_\_

APPROVED \_\_\_\_\_  
District Right of way Agent

\_\_\_\_\_  
Director, Right of way Division

APPROVED \_\_\_\_\_  
Right of Way Attorney

DATE \_\_\_\_\_

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION,  
DIVISION OF HIGHWAYS

Form RW 13.12  
Rev. 10/12/90  
SUPPLEMENTAL CLAIM FOR REIMBURSEMENT  
Expenses incidental to transfer  
of property to the WEST VIRGINIA  
DEPARTMENT OF TRANSPORTATION,  
DIVISION OF HIGHWAYS

Parcel No.	Project No.
District	County

Date of Claim \_\_\_\_\_

Title to the designated parcel, formerly owned by the undersigned, hereinafter designated as "Claimant", regardless of number, was acquired by the West Virginia Department of Transportation, Division of Highways (formerly The State Road Commission of West Virginia and the West Virginia Department of Highways) on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, (insert date of execution and delivery of deed or date of entry of court order, whichever is applicable).

Real property taxes for the calendar year \_\_\_\_\_ constituted a lien against said parcel on said date but were not then due, ascertainable or payable.

Claimant thereafter paid said taxes in the amount of \$\_\_\_\_\_ and is entitled to be reimbursed on a pro rata basis for that portion of taxes paid that are attributable to the property acquired by the West Virginia Department of Transportation, Division of Highways, as aforesaid.

CALCULATION OF CLAIM:

1. 19\_\_\_\_ Real Property Taxes (actual amount paid, less interest and penalties, if any)  
\$ \_\_\_\_\_
2. Whole taking |  | Partial taking |  | (Check One)
3. If a partial taking, adjust assessment to reflect amount of tax attributable to part taken and enter  
\$ \_\_\_\_\_
4. Per week assessment (divide amount opposite 1 or 3, whichever is less by 52)  
\$ \_\_\_\_\_
5. Number of weeks remaining in calendar year from date of vesting of title or date of possession, whichever is earlier  
\_\_\_\_\_
6. Product of per week assessment and number of weeks

\$ _____ (Amount of Claim)
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Claimant requests that payment be made to \_\_\_\_\_  
whose address is \_\_\_\_\_  
\_\_\_\_\_

(Claimant)	(Claimant)
(Claimant)	(Claimant)
(Claimant)	(Claimant)

APPROVED:

\_\_\_\_\_  
Right of Way Attorney

\_\_\_\_\_  
Director, Right of Way Division

Date \_\_\_\_\_