

## Relocation of Legal Billboards

### Message Points

- Relocation of legal billboards is a win-win because it saves public funds by avoiding removal costs while preserving private property rights
- Relocation of billboards is routine, and the practice is authorized by government policies
- The premise of relocation is based on securing acceptable new locations of comparable value

### Relocation of Legal Billboards

For a variety of reasons – such as road construction affecting the location of billboards – relocation of billboard assets is the preferred option for government as well as the sign owner. The government saves public funds that otherwise would be spent to compensate for removal of the billboard, advertisers retain their ability to communicate with customers, and the billboard owner retains his or her sign.

Under the Highway Beautification Act (HBA), states have broad authority to maintain “effective control.” Federal policy allows for relocation of nonconforming billboards if allowed by states.

A growing number of states provide for relocation, as an alternative to government taking of billboards. Recently adopted state laws feature relocation as a no-cost preferred option to forced removal of billboards. Relocation is a first step; if suitable new sites cannot be found then these laws provide for arbitration and eventually just compensation for removal. The Federal Highway Administration (FHWA) has accepted these laws.

When Florida approved its law in 2002, then-Governor Jeb Bush touted relocation:

*First, this bill seeks to avoid the thorny issue of compensation altogether by first promoting the relocation of billboards. ...This legislation provides for a negotiation and arbitration process designed to encourage relocation of a billboard as a first remedy. In fact, many billboard owners would prefer to have their billboards relocated. This is evidenced by the fact that already many agreements between billboard owners and localities are settled by relocation. – Jeb Bush, April 4, 2002*

At the local level, authorities approve relocation for the same reasons: to save taxpayer funds, improve aesthetics, allow new technologies, and to protect property rights.

In the past few years several states, such as Florida, Michigan, Tennessee, and Virginia have enacted statutory or regulatory changes to allow relocation of legal billboards.

In Missouri, Governor Jay Dixon signed legislation on July 10, 2012, to allow relocation of billboards in the path of freeway widening projects, saving condemnation costs. This statutory provision was a result of complications arising from a statewide spacing distance increase between billboards on all controlled highways. The new law enables companies to re-set “out of standard” billboards as an alternative to acquisition and removal and had the full support of the Missouri DOT. Additionally, Louisiana, Michigan, and Oklahoma have enacted legislation allowing state nonconforming/federally conforming signs to be relocated.

## Resources

Thomas J. Madison Jr, Administrator, Federal Highway Administration, letter to Senator David Vitter, September 16, 2008, RE: relocation of billboards

Letter of transmittal (governor's transmission of legislation to Secretary of State Katherine Harris), Governor Jeb Bush, April 4, 2002

Compendium of State Statutory/Regulatory Relocation Laws (CA, FL, ID, MO, NC, SC, TN, TX, UT, VA) and a local ordinance (Cleveland, OH), with relevant provisions highlighted



Office of the Administrator 1200 New Jersey Avenue, SE.  
September 16, 2008 Washington, DC 20590

In Reply Refer To:  
HEPR

The Honorable David Vitter  
United States Senator  
322 I Ryan Street  
Lake Charles, LA 70601

Dear Senator Vitter:

Thank you for your July 21 letter to Mr. Charles W. Bolinger, our Louisiana Division Administrator, regarding spacing requirements for outdoor advertising. Because your inquiry involves the Highway Beautification Act (HBA) of 1965, as amended, and State laws in Missouri and Louisiana, I am replying for Mr. Bolinger.

The HBA is the governing Federal law on effective control of outdoor advertising along the Nation's highways. It specifies which roads are covered (the Interstate System and the primary system), what signs are allowed, and placement in relation to the roadway. Following enactment of the HBA in 1965, we entered into a State/Federal agreement with each State transportation department on effective control of outdoor advertising that specifies minimum requirements for spacing, among other features.

Although the State/Federal agreement specifies minimum spacing requirements, a State may impose more restrictive spacing requirements. For purposes of the HBA, signs that are consistent with the minimum spacing requirements in the State/Federal agreement retain their status under that agreement even though they do not conform with the State's newer more restrictive requirements. In the event of a Federal-aid project that requires the taking of the land on which one of these signs has been erected, the sign may be relocated and reconstructed as part of the Federal-aid project to sites that are legal under State law and consistent with the State/Federal agreement. If the sign cannot be re-erected legally, the sign owner could be eligible for reimbursement for the fair market value of the sign.

In the letter you enclosed, Missouri Division Administrator Allan Masuda pointed out that several outstanding issues remained to be clarified regarding the State legislative proposal, particularly the status of signs that must be moved because of a Federal-aid highway project. In the end, the Missouri legislation did not approve a change in State law.

**AMERICAN  
ECONOMY** 2

As the State legislature in Louisiana considers changes in outdoor advertising statutes, Mr. Bolinger is available to work with officials of the Louisiana Department of Transportation and Development if they have any questions about compliance with the HBA or the State/Federal agreement.

If I can provide further information or assistance, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom', with a stylized flourish at the end.

Thomas J. Madison, Jr.  
Administrator

cc:  
Washington Office

April 4, 2002

The Honorable Katherine Harris  
Secretary of State  
PL 02 The Capitol  
Tallahassee, Florida 32399

Dear Secretary Harris:

I hereby transmit to you with my signature Committee Substitute for House Bill 715, an act relating to transportation.

Committee Substitute for House Bill 715, among other issues, provides a mechanism for the removal of billboards in Florida's counties and cities. Over the last 20 years, local communities have launched road beautification programs intended to remove what many consider to be the blight of billboards in our communities. Under this bill, localities may still continue with that process. The issue the bill seeks to address, however, is how localities are to compensate billboard owners for damages that result in the takings of these billboards. The bill also seeks to balance two fundamental governing principles – that we should whenever possible allow local governments to govern their own affairs, and that Floridians should be protected in their private property from government takings.

In this particular bill, these principles appear to compete. Local communities seeking to remove billboards have employed a compensation policy called amortization. Under this policy, billboard owners would be allowed to keep their billboards intact for a predetermined period of time, established by the locality, in order to recoup as much of their investment as possible. Upon expiration of this time period, localities could then force the removal of the billboards without paying compensation to the billboard owners. Localities believe this is an appropriate means for compensation. On the other hand, billboard owners see forced removal of their property much like the forced removal of a business or a home. The takings of a business or a home would trigger a different compensation mechanism known as “just compensation” – localities would have to pay the fair market value of the property taken, rather than waiting for a period of time and then taking the property without compensation. Hence, the issue: Localities seek to utilize amortization in order to remove billboards without having to expend taxpayer dollars, while billboard owners desire to be paid fair market value for the takings of their property.

The Honorable Katherine Harris  
April 4, 2002  
Page Two

This issue is especially difficult since I am a firm believer in both local control and property rights. I also believe that CS/House Bill 715, while not perfect, strikes an adequate balance between important principles.

First, this bill seeks to avoid the thorny issue of compensation altogether by first promoting the relocation of billboards. Unlike earlier legislative amendments on this issue, this legislation provides for a negotiation and arbitration process designed to encourage relocation of a billboard as a first remedy. In fact, many billboard owners would prefer to have their billboards relocated. This is evidenced by the fact that already many agreements between billboard owners and localities are settled by relocation. In CS/House Bill 715, billboard owners and localities are encouraged to negotiate for relocation. If those negotiations fail, a process for non-binding arbitration is established. Only if arbitration fails to yield a satisfactory resolution does the requirement for just compensation take effect.

Second, this bill does not prohibit localities from passing ordinances banning all future billboards going forward. Rather it deals only with existing billboards and how they should be removed. It also still permits amortization as a negotiation tool for communities. There is nothing in this bill that prevents communities from offering a longer amortization in lieu of just compensation – in fact, some commentaries on this subject suggest amortization is a more lucrative form of compensation for billboard owners. If that is the case, an individual billboard owner may still agree to an amortization period in place of fair market value, if he or she finds that will be a more appropriate form of compensation.

Third, the legislation specifically recognizes by exemption existing billboard agreements between billboard owners and localities, as well as communities with amortization periods completed that are in litigation with billboard owners as of January 1, 2001. These two exceptions alone would exempt a good many communities, including some of Florida's largest counties and cities, from the impact of this bill.

Fourth, the requirement for just compensation for billboard removal in this country is the rule, not the exception. Already, the State of Florida pays just compensation when it seeks to remove billboards. In 39 other states, the law provides for just compensation. In addition, the bill is consistent with the federal government policy that provides just compensation for the removal of billboards on all federal-aid highways.

Fifth, the bill would treat billboard owners and billboard tenants as we treat other property owners and other business tenants. Instead of suggesting that a billboard is property that is less deserving of protection against government takings, this bill would level the playing field, treating billboards as we would treat a leased or owned restaurant or a gas station that is removed by government to advance a public purpose. There is no priority interest given to billboard owners; there is no change in eminent domain law.

The Honorable Katherine Harris  
April 4, 2002  
Page Three

Sixth, the payment of just compensation by counties and cities is not necessarily prohibitive. In editorials around the state opposing this legislation, it is often remarked that paying just compensation will bankrupt cities or force them to abandon their beautification programs. While the cost of removing billboards may be hard to quantify, the Florida Department of Transportation's (DOT) own experience in billboard removal has been fairly reasonable. For example, in a random survey by DOT of its eminent domain proceedings with billboards, it found that in only seven cases of the 33 proceedings surveyed, billboard owners were compensated at an amount greater than \$100,000 for signs located in heavy urban areas and along major interstates. About half of the eminent domain settlements resulted in compensation of less than \$50,000.

Finally, the bill is the product of a two-year negotiation process. When this issue arose a number of years ago, I asked my office to initiate discussions between both the billboard owners and local governments. While these meetings failed to yield consensus, it did have the effect of moderating the initial legislative proposals – proposals that did not include exemptions, clarification that the bill applies only to “lawfully erected” signs, and an arbitration process designed to encourage relocation. Nevertheless, the version of the proposal now under consideration did go through ten committee hearings over the last two years, was debated five times before the full House and five times before the full Senate, and has passed the Legislature not once, but twice.

Some opponents of this legislation suggest that the bill is unfair because billboards for tax purposes are valued as tangible personal property, and that may be less than the valuation of the billboard for eminent domain purposes. Although this issue is irrelevant to the bill since property tax appraisals cannot by law be considered in eminent domain proceedings, it is important to point out that property appraisers in valuing a billboard may consider cost, market and income approaches. In reality, however, our research has found that many counties rely solely on cost at their discretion. The Legislature in its wisdom recognized the need to review valuation of signs by calling on the Office of Program Policy Analysis and Government Accountability (OPPAGA) to study the value of offsite signs in relation to the valuation of other commercial properties for ad valorem tax purposes, including a comparison of tax valuations from other states.

In sum, CS/House Bill 715 protects the rights of property owners while still allowing local governments the latitude to remove or relocate billboards. Under the bill, localities can still use their home rule power to remove a billboard. If they choose, localities may now remove billboards immediately, without having to wait for years. Or, they may offer relocation or amortization as a settlement. Their existing agreements with billboard owners are still honored. It allows for the continuation of



court cases in progress before January 1, 2001, and it preserves all existing and future ordinances not in conflict with the just compensation provisions of the law.

The Honorable Katherine Harris  
April 4, 2002  
Page Four

CS/House Bill 715 also stands for something in which I strongly believe. As a conservative, it is my opinion that we must always be wary of the government taking or regulating away the use of property, tangible or real, whether direct or indirect. It should not be something taken lightly, and it should not be something made too easy. The taking, whether direct or indirect, of private property is serious business. It should require extraordinary effort on the part of government to effectuate. Imagine a government that could amortize your home or your business as a means of taking your property? Such a failure of the checks and balances of government power would be pernicious. Similarly, we, as a people, do not deserve the further diminishment of our rights by marginalizing how government compensates us when it does actually utilize its extraordinary power to take property.

For these reasons, and due to the bill's attempt to balance the rights of cities and counties with the rights of property owners, I hereby approve CS/House Bill 715.

Sincerely,

Jeb Bush

JB/pan

Attachment

## Compendium of State Statutes/Regulations

The following state statutes and/or regulations exemplify language for relocation of legal outdoor advertising signs. These statutes involve requiring just (cash) compensation by a governmental entity and/or relocation of legal billboards along highways.

### California

#### **5412.**

Notwithstanding any other provision of this chapter, no advertising display which was lawfully erected anywhere within this state shall be compelled to be removed, nor shall its customary maintenance or use be limited, whether or not the removal or limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation of any governmental entity, without payment of compensation, as defined in the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure), except as provided in Sections 5412.1, 5412.2, and 5412.3. The compensation shall be paid to the owner or owners of the advertising display and the owner or owners of the land upon which the display is located.

This section applies to all displays which were lawfully erected in compliance with state laws and local ordinances in effect when the displays were erected if the displays were in existence on November 6, 1978, or lawfully erected after November 6, 1978, regardless of whether the displays have become nonconforming or have been provided an amortization period. This section does not apply to on-premise displays as specified in Section 5272 or to displays which are relocated by mutual agreement between the display owner and the local entity.

"Relocation," as used in this section, includes removal of a display and construction of a new display to substitute for the display removed.

***It is a policy of this state to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city, county, city and county, or other local entity, and to adopt ordinances or resolutions providing for relocation of displays.***

### Florida

#### **479.15 Harmony of regulations**

(1) A zoning board or commission or other public officer or agency may not issue a permit to erect a sign that is prohibited under this chapter or the rules of the department, and the department may not issue a permit for a sign that is prohibited by any other public board, officer, or agency in the lawful exercise of its powers.

(2) A municipality, county, local zoning authority, or other local governmental entity may not remove, or cause to be removed, a lawfully erected sign along any portion of the interstate or federal-aid primary highway system without first paying just compensation for such removal. A local governmental entity may not cause in any way the alteration of a lawfully erected sign located along any portion of the interstate or federal-aid primary highway system without payment of just compensation if such alteration constitutes a taking under state law. The municipality, county, local zoning authority, or other local governmental entity that adopts requirements for such alteration shall pay just compensation to the sign owner if such alteration constitutes a taking under state law. This subsection applies only to a lawfully

erected sign the subject matter of which relates to premises other than the premises on which it is located or to merchandise, services, activities, or entertainment not sold, produced, manufactured, or furnished on the premises on which the sign is located. This subsection may not be interpreted as explicit or implicit legislative recognition that alterations do or do not constitute a taking under state law.

***(3) It is the express intent of the Legislature to limit the state right-of-way acquisition costs on state and federal roads in eminent domain proceedings, ss. 479.07 and 479.155 notwithstanding. Subject to approval by the Federal Highway Administration, if public acquisition of land upon which is situated a lawfully permitted sign occurs as provided in this chapter, the sign may, at the election of its owner and the department, be relocated or reconstructed adjacent to the new right-of-way and in close proximity to the current site if the sign is not relocated in an area inconsistent with s. 479.024. Such relocation is subject to the requirements in the 1972 agreement between the state and the United States Department of Transportation. The sign owner shall pay all costs associated with relocating or reconstructing a sign under this subsection, and the state or any local government may not reimburse the sign owner for such costs, unless part of such relocation costs is required by federal law. If adjacent property is not available for the relocation, the department is responsible for paying the owner of the sign just compensation for its removal.***

***(4) For a nonconforming sign, the face of the sign may not be increased in size or height or structurally modified at the point of relocation in a manner inconsistent with the current building codes of the jurisdiction in which the sign is located.***

***(5) If relocation can be accomplished but is inconsistent with the ordinances of the municipality or county within whose jurisdiction the sign is located, the ordinances of the local government shall prevail if the local government assumes the responsibility to provide the owner of the sign just compensation for its removal. Compensation paid by the local government may not be greater than the compensation required under state or federal law. This section does not impair any agreement or future agreements between a municipality or county and the owner of a sign or signs within the jurisdiction of the municipality or county.***

***(6) Subsections (3), (4), and (5) do not apply within the jurisdiction of a municipality that is engaged in litigation concerning its sign ordinance on April 23, 1999, and the subsections do not apply to a municipality whose boundaries are identical to the county within which the municipality is located.***

***(7) This section does not cause a neighboring sign that is already permitted and that is within the spacing requirements established in s. 479.07(9)(a) to become nonconforming.***

## **Idaho**

### **40-1910A**

**(3) It is a policy of this state to encourage governmental entities and owners of off-premises outdoor advertising to enter into relocation agreements in lieu and instead of paying the compensation provided herein, to continue development in a planned manner without expenditures of public funds while allowing continued maintenance of private investment and a medium of public communication. The state, cities, counties and all other political subdivisions are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the off-premises outdoor advertising owner and the governmental entity and to adopt rules, ordinances or resolutions providing for relocation of off-premises outdoor advertising, provided that nothing herein shall require compensation other than the actual cost of relocation unless the said owner is reasonably unable to acquire an alternate permissible location of comparable cost and value within the same market area.**

Notwithstanding anything to the contrary herein, this section shall not be construed to prohibit a governmental entity from entering into any relocation agreement upon such terms as shall be otherwise lawful.

### **Missouri**

**226.500.** The general assembly finds and declares that outdoor advertising is a legitimate commercial use of private property adjacent to the interstate and primary highway systems and that it is necessary to regulate and control same to promote highway safety, to promote convenience and enjoyment of highway travel, and to preserve the natural scenic beauty of highways and adjacent areas. The general assembly further declares it to be the policy of this state that the erection and maintenance of outdoor advertising in areas adjacent to the interstate and primary highway systems be regulated in accordance with sections 226.500 to 226.600 and rules and regulations promulgated by the state Highways and Transportation Commission pursuant thereto and may confer with the department of public safety regarding highway safety, the department of economic development and the state division of tourism with regard to promoting the convenience and enjoyment of highway travel, and the departments of conservation and natural resources regarding the preservation of the natural scenic beauty of adjacent areas.

**226.541. 1.** As used in this section, the following words or phrases mean:

(1) "Conforming out of standard signs", signs that fail to meet the current statutory and administrative rule requirements for outdoor advertising but currently comply with the terms of the federal/state agreement and meet the August 27, 1999, statutory and administrative rule requirements that governed outdoor advertising and the highway beautification act of 1965;

(2) "Federal/state agreement", an agreement executed between the United States Department of Transportation and the state Highways and Transportation Commission on February 22, 1972, for carrying out national policy relative to control of outdoor advertising in areas adjacent to the national system of interstate and defense highways and the federal-aid primary system;

(3) "Qualifying signs", signs which meet the requirements for outdoor advertising in effect on August 27, 1999, and the requirements of the federal/state agreement;

(4) "Reset", movement of a sign structure from one location to another location on the same or adjoining property, if the adjoining property is zoned commercial or industrial or in an unzoned commercial or industrial area and the owner of the sign has obtained the legal right to erect a sign on the adjoining property from its owner, as authorized by a sign permit amendment and the terms of an executed written partial waiver and reset agreement between the permit owner and the state Highways and Transportation Commission;

(5) "Substantially rebuilt", any reconstruction or repair of a sign that requires the replacement of more than fifty percent of the sign structure's support poles in a twelve-month period.

2. Subject to the provisions of this section, and if allowed by applicable local regulations, conforming out of standard signs shall be treated as conforming signs under commission administrative rules, including new display technologies, lighting, cutouts, and extensions, except that such signs shall not be substantially rebuilt except in accordance with the provisions of this section. If allowed by applicable local regulations, new technologies, lighting, cutouts, and extensions may be utilized on conforming and conforming out of standard signs in accordance with Missouri department of transportation regulations.

3. If allowed by applicable local regulations, a conforming out of standard sign may be upgraded:

- (1) Up to twenty percent of the sign face, not to exceed one hundred sixty square feet of area, with digital technology for displaying text or numbers in accordance with current law and rules; or
- (2) More than twenty percent only if it maintains a distance of at least one thousand four hundred feet from any other such digital technology display sign.
4. Notwithstanding any provision of the law to the contrary, a conforming out of standard sign may be unstacked by closing the gap between the signs or by replacing the faces with one display area. The resulting sign face square footage shall not exceed the square footage of the original stacked structure. A conforming out of standard sign structure height may be lowered.
5. On the date the commission approves funding for any phase or portion of construction or reconstruction of any street or highway, the rules in effect for outdoor advertising on August 27, 1999, shall be reinstated for that section of highway scheduled for construction and there shall immediately be a moratorium imposed on the issuance of state sign permits for new sign structures.
6. Owners of existing signs which meet the requirements for outdoor advertising in effect on August 27, 1999, and the requirements of the federal/state agreement and who voluntarily execute a partial waiver and reset agreement may reset such signs on the same or adjoining property. Such reset agreements shall be contingent upon obtaining any required local approval to reset the sign structure. Any sign which has been reset must still comply with the August 27, 1999, outdoor advertising regulations after it has been reset.
7. Owners of existing signs who elect to reset qualifying signs shall receive compensation from the state Highways and Transportation Commission or in accordance with a cost sharing agreement representing the actual cost to reset the existing sign. Signs which have been reset under these provisions must be reconstructed of the same type materials and may not exceed the square footage of the original sign structure.
8. Sign owners may elect to reset existing qualifying signs by executing a partial waiver and reset agreement with the commission. Such agreement shall specify the size, type, and location of the rebuilt sign and the reset expenses to be paid to the owner by the commission. The commission may consider the impact of a potential reset upon scenic, natural, historic, or other features in the surrounding area in its determination of whether to enter into a reset agreement.
9. Immediately upon the completion of construction on any section of highway, the moratorium on new permits shall be lifted and the rules for outdoor advertising in effect on the date the construction is completed shall apply to such section of highway.
10. Local zoning authorities may prohibit the resetting of qualifying signs which fail to comply with local regulations.
11. The state Highways and Transportation Commission, in accordance with section 226.500, shall review its current rules and regulations and solicit industry, stakeholder, and public comments regarding digital technology upgrades, including but not limited to, ad copy duration, distance from interchanges, brightness controls, including light sensors and timers, and distance from other billboards prior to implementing the sign reset agreement program or digital upgrade regulations described in this section.
12. All signs shall be subject to the biennial inspection fees under section 226.550.

### **North Carolina**

#### **153A-143**

(g) In lieu of paying monetary compensation, a county may enter into an agreement with the owner of a nonconforming off-premises outdoor advertising sign to relocate and reconstruct the signs. The agreement shall include the following:

(1) Provision for relocation of the sign to a site reasonably comparable to or better than the existing location. In determining whether a location is comparable or better, the following factors shall be taken into consideration:

- a. The size and format of the sign.
- b. The characteristics of the proposed relocation site, including visibility, traffic count, area demographics, zoning, and any uncompensated differential in the sign owner's cost to lease the replacement site.
- c. The timing of the relocation.

(2) Provision for payment by the county of the reasonable costs of relocating and reconstructing the sign including:

- a. The actual cost of removing the sign.
- b. The actual cost of any necessary repairs to the real property for damages caused in the removal of the sign.
- c. The actual cost of installing the sign at the new location.
- d. An amount of money equivalent to the income received from the lease of the sign for a period of up to 30 days if income is lost during the relocation of the sign.

(h) For the purposes of relocating and reconstructing a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, a county, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it deems appropriate.

(i) If a county has offered to enter into an agreement to relocate a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, and within 120 days after the initial notice by the county the parties have not been able to agree that the site or sites offered by the county for relocation of the sign are reasonably comparable or better than the existing site, the parties shall enter into binding arbitration to resolve their disagreements.

Unless a different method of arbitration is agreed upon by the parties, the arbitration shall be conducted by a panel of three arbitrators. Each party shall select one arbitrator and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules shall apply to the arbitration unless the parties agree otherwise.

(j) If the arbitration results in a determination that the site or sites offered by the county for relocation of the nonconforming sign are not reasonably comparable to or better than the existing site, and the county elects to proceed with the removal of the sign, the parties shall determine the monetary compensation under subsection (e) of this section to be paid to the owner of the sign. If the parties are unable to reach an agreement regarding monetary compensation within 30 days of the receipt of the arbitrators' determination, and the county elects to proceed with the removal of the sign, then the county may bring an action in superior court for a determination of the monetary compensation to be paid by the county to the owner for the removal of the sign. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the signs, the county shall own the sign.

**Oklahoma**  
**69.1275**

(4) For the purpose of providing a method and opportunity to minimize the cost of acquiring legally erected outdoor advertising signs to be taken when the state purchases land under eminent domain, the Director of the Department of Transportation shall have the option to approve the issuance of permits for outdoor advertising signs visible from interstate and freeway primary facilities which are to be erected less than one thousand (1,000) feet from another such sign. Permits issued pursuant to this option shall be only for the purpose of providing a relocation site for a sign being taken by the state, and in no case shall such permits allow an outdoor advertising sign to be erected less than the distance provided for in this title from another such sign. Provided, when the Department issues a permit pursuant to this subsection to accommodate the relocation of a structure:

- a. if the structure to be removed is visible from an interstate highway inside an incorporated area, the relocation site shall be inside the same incorporated area and shall be visible from an interstate highway,
- b. if the structure to be removed is visible from a freeway primary highway inside an incorporated area, the relocation site shall be inside the same incorporated area and shall be visible from a freeway primary highway or an interstate highway,
- c. if there are not suitable relocation sites meeting the provisions of subparagraph a of this paragraph and the structure to be removed is visible from an interstate highway inside an incorporated area, notwithstanding the provisions of subparagraph a of this paragraph, the Department may issue a permit for a relocation site outside of the incorporated area which shall be visible from an interstate highway, and
- d. if there are no suitable relocation sites meeting the provisions of subparagraph b of this paragraph and the structure to be removed is visible from a freeway primary highway inside an incorporated area, notwithstanding the provisions of subparagraph b of this paragraph, the Department may issue a permit for a relocation site outside of the incorporated area which shall be visible from a freeway primary highway or an interstate highway.

Provided further, the square footage of display face on the relocated sign shall not exceed the square footage of display face of the taken sign. The Transportation Commission shall have the authority to promulgate rules necessary to implement the use of the permit option provided for in this subsection and to request the cooperation of municipalities where local permits are required.

(5) Notwithstanding any other provision of law, the Department of Transportation shall, after determining the need to acquire property upon which outdoor advertising structures are located, have the authority to negotiate directly with the owner of the outdoor advertising structure the terms for maintaining such structures in their current position or for the relocation of such structures. Such negotiations may begin prior to the Department's initiation of formal condemnation proceedings and shall be completed within six (6) months or at the time of the court-appointed appraiser's report, whichever occurs first. The owner of the outdoor advertising structure shall initiate such negotiations by written request to the Department, provided such request shall include proof of sole ownership of the structure. Nothing in this section shall be construed to prevent the owner of the land from pursuing a claim of interest in any lease existing between the landowner and the outdoor advertising structure owner, or to prevent the outdoor advertising structure owner from pursuing a claim for fair market value of the owner's interest if negotiations with the Department for a lease or structure relocation arrangement are not successful.



## South Carolina

### **Section 39-14-30**

(A) A local governing body may require the removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance and may regulate the use of off-premises outdoor advertising signs within the jurisdiction of the local governing body in accordance with the applicable provisions of this chapter.

(B) A local governing body may enact or amend an ordinance of general applicability to require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign only if the ordinance requires the payment of just compensation to the sign owners, except as provided in this subsection. The payment of just compensation is not required if the:

(1) local governing body and the owner of the nonconforming off-premises outdoor advertising sign enter into a relocation agreement pursuant to subsections (D) and (F);

(2) local governing body and the owner of the nonconforming off-premises outdoor advertising sign enter into an agreement pursuant to subsection (I);

(3) off-premises outdoor advertising sign is adjudicated to be a public nuisance or detrimental to the health or safety of the populace; or

(4) removal is required for opening, widening, extending or improving streets or sidewalks, or for establishing, extending, enlarging, or improving a public enterprise, and the local governing body allows the off-premises outdoor advertising sign to be relocated to a comparable or better location as determined by the criteria as provided in Section 39-14-30(D)(1)(a) through (c) and the local governing body pays the costs of the relocation of the sign as provided in Section 39-14-30(D)(2)(a) through (d).

(C) A local governing body shall give written notice of its intent to require removal of an off-premises outdoor advertising sign by sending a letter by certified mail to the last known address of the sign owner and the owner of the property on which the off-premises outdoor advertising sign is located.

**(D) If a local governing body requires removal of an off-premises outdoor advertising sign, the local governing body may enter into an agreement with the owner of a nonconforming off-premises outdoor advertising sign to relocate and reconstruct the sign. The relocated sign must comply with the provisions of Title 57. The agreement must include provisions for:**

(1) relocation of the sign to a site reasonably comparable to or better than the existing location. In determining whether a location is comparable or better, the following factors must be taken into consideration, the:

(a) size and format of the sign;

(b) characteristics of the proposed relocation site, including visibility, traffic count, area demographics, zoning, and any uncompensated differential in the sign owner's cost to lease the replacement site; and

- (c) timing of the relocation.
- (2) payment by the local governing body of the reasonable costs of relocating and reconstructing the sign including:
  - (a) the actual cost of removing the sign;
  - (b) the actual cost of necessary repairs to the real property for damages caused in the removal of the sign;
  - (c) the actual cost of installing the sign at the new location; and
  - (d) an amount of money equivalent to the income received from the lease of the sign for a period of up to thirty days if income is lost during the relocation of the sign.

(E) For the purposes of relocating and reconstructing a nonconforming off-premises outdoor advertising sign pursuant to subsection (D), a local governing body, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it considers appropriate as long as it does not affect the provisions of. [Section 57-25-190\(E\)](#)

(F) If a local governing body has offered to enter into an agreement to relocate a nonconforming off-premises outdoor advertising sign pursuant to subsection (D), and within one hundred twenty days after the initial notice by the local governing body the parties have not been able to agree that the site or sites offered by the local governing body for relocation of the sign are reasonably comparable to or better than the existing site, the parties, by mutual agreement, may enter into binding arbitration to determine the comparability of the site offered for relocation. Unless a different method of arbitration is agreed upon by the parties, the arbitration must be conducted by a panel of three arbitrators. Each party shall select one arbitrator and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules apply to the arbitration unless the parties agree otherwise. Unless the parties agree otherwise, each party shall pay his respective share of the costs for the arbitration, including the costs of the services of his attorneys and witnesses, plus his proportionate share of the costs associated with the arbitration.

(G) If the arbitration proceeding pursuant to the provision of subsection (F) results in a determination that the site or sites offered by the local governing body for relocation of the nonconforming sign are not comparable to or better than the existing site, and the local governing body elects to proceed with the removal of the sign, the parties shall determine just compensation pursuant to Section 39-14-20(3) to be paid to the sign owner. If the parties are unable to reach an agreement regarding just compensation within thirty days of the receipt of the arbitrators' determination regarding relocation, and the local governing body elects to proceed with the removal of the sign, the parties, by mutual agreement, may enter into binding arbitration to determine the amount of just compensation to be paid pursuant to the factors provided in Section 39-14-20(3). Unless a different method of arbitration is agreed upon by the parties, the arbitration must be conducted by a panel of three arbitrators. Each party shall select one arbitrator, and the two arbitrators chosen by the

parties shall select the third member of the panel. The American Arbitration Association rules apply to the arbitration unless the parties agree otherwise. Unless the parties agree otherwise, each party shall pay his respective share of the costs for the arbitration, including the costs of the services of his attorneys and witnesses, plus his proportionate share of the costs associated with the arbitration.

(H) If the parties choose not to enter into binding arbitration for the purposes of either relocation or just compensation and the local governing body elects to proceed with the removal of the sign, the local governing body shall bring an action in circuit court for a determination of the just compensation to be paid by the local governing body to the sign owner for the removal of the sign. In determining just compensation, the court shall consider the factors as provided in Section 39-14-20(3). The court also shall determine and award reasonable attorneys' fees and expert witness fees incurred by the sign owner in the proceedings to determine the amount of just compensation.

(I) Notwithstanding the provisions of this section, a local governing body and sign owner may enter into a voluntary agreement allowing for the removal of the sign after a set period of time instead of just compensation.

(J) A local governing body shall not prevent the repositioning of a nonconforming sign on the same parcel of land to facilitate the development of the parcel so long as the repositioning of the sign does not increase the degree of the sign's nonconformity.

(K) The requirement by a local governing body that a lawfully erected sign be removed or altered as a condition precedent to the issuance or continued effectiveness of a zoning ordinance or issuance of a license or permit constitutes a compelled removal that is prohibited without prior payment of just compensation.

(L) An off-premises outdoor advertising sign may not be removed until the owner of the property on which it is located has been compensated fully by the local governing body requiring the sign's removal for a loss which may be suffered as a result of the removal of the off-premises outdoor advertising sign through the termination of a lease or other financial arrangement with the sign owner. The compensation must include damage to the landowner's property occasioned by removal of the off-premises outdoor advertising sign.

(M) The provisions of this section may not be used to interpret, construe, alter, or otherwise modify the exercise of the power of eminent domain by an entity pursuant to Article 3, Chapter 25, Title 57 or the manner in which outdoor advertising is valued by the South Carolina Department of Transportation.

(N) Nothing in this section limits a local governing body's authority to use amortization as a means of phasing out nonconforming uses other than off-premises outdoor advertising.

Section 39-14-40. If a local governing body requires the removal of an off-premises outdoor advertising sign pursuant to the provisions of this chapter and through a voluntary agreement, arbitration, or a court proceeding is required to pay just compensation to a sign owner, the local governing body is authorized to elect to pay the amount due to the sign owner in regular mutually agreed upon installments over three years before the final removal of the sign."

## Tennessee

### SECTION 1. Tennessee Code Annotated, Section 13-7-208(m)(1)

If any land area becomes subject to land use restrictions imposed pursuant to a redevelopment plan undertaken by any governmental agency of this state or of its political subdivisions pursuant to chapter 20, part 2 of this title, or if the land area is subject to land use restrictions that are amended by any governmental agency of this state or of its political subdivisions pursuant to chapter 20, part 2 of this title, and if the land use restrictions differ from the land use restrictions contained in the amended land use restrictions, then any industrial, commercial, or other business establishment in operation and permitted to operate prior to the initial adoption of the land use restrictions or an amendment thereto, shall be allowed to continue in operation and shall be permitted; provided, that no change in the use of the land is undertaken by the industrial, commercial, or business establishment.

(2) Immediately preceding an initial adoption of the land use restrictions or an amendment of the restrictions, industrial, commercial, and other business establishments in operation and permitted to operate under land use restrictions imposed pursuant to a redevelopment plan undertaken by any governmental agency of this state or of its political subdivisions pursuant to chapter 20, part 2 of this title, shall be allowed to replace facilities necessary to conduct the industry or business if the facilities are acquired by a governmental entity pursuant to the power of eminent domain, or under threat of the exercise of the power of eminent domain, or replace facilities required to be relocated as the result of the acquisition of property by a governmental entity pursuant to the power of eminent domain, or under threat of the exercise of the power of eminent domain; provided, that:

- (A) The replacement facilities shall not be larger in size than the facilities in existence prior to the acquisition or relocation;
- (B) The construction of the replacement facilities shall commence within thirty (30) months of the date of the taking or acquisition under threat of the exercise of the power of eminent domain; and
- (C) There is a reasonable amount of space for such replacement facilities on the property owned by such industry or business situated within the area that is affected by the adoption of the land use restrictions or an amendment of the restrictions, so as to avoid nuisances to adjoining landowners.

(3) Subdivision (m)(2) shall apply only to land owned and in use by the affected industrial, commercial, or other business establishment prior to acquisition or relocation resulting from the exercise of the power of eminent domain, or the threat of the exercise of the power of eminent domain, and does not operate to permit the replacement of facilities necessary to the conduct of the industry or business through the acquisition of additional land.

(4) Subdivisions (m)(2) and (3) shall apply only to any acquisition or relocation of facilities within an area subject to land use restrictions imposed pursuant to a redevelopment plan undertaken by any governmental agency of this state or of its political subdivisions pursuant to chapter 20, part 2 of this title, occurring on or after July 1, 2015, regardless of the redevelopment plan's date of enactment.

SECTION 2. Tennessee Code Annotated, Section 13-7-208(h), is amended by adding the following language as a new subdivision:

(7) Any operation, rebuilding, or expansion of an off-site sign that has been in existence for ten (10) years or more shall not be denied solely on the basis that the original permit for the sign does not exist to prove that it was a lawful use when constructed.

## Texas

<b><u>TITLE 43</u></b>	TRANSPORTATION
<b><u>PART 1</u></b>	TEXAS DEPARTMENT OF TRANSPORTATION
<b><u>CHAPTER 21</u></b>	RIGHT OF WAY
<b><u>SUBCHAPTER I</u></b>	REGULATION OF SIGNS ALONG INTERSTATE AND PRIMARY HIGHWAYS
<b><u>DIVISION 1</u></b>	<b>SIGNS</b>
<b>RULE §21.192</b>	<b>Permit for Relocation of Sign</b>

(a) A sign may be relocated in accordance with this section, §21.193 of this division (relating to Location of Relocated Sign), §21.194 of this division (relating to Construction and Appearance of Relocated Sign), and §21.195 of this division (relating to Relocation of Sign within Municipality) if the sign is legally erected and maintained and will be within the highway right of way as a result of a highway construction project.

(b) To relocate a sign under this section, the permit holder must obtain a new permit under §21.164 of this division (relating to Decision on Application), but the permit fee is waived.

(c) To receive a new permit to relocate a sign under this section, the permit holder must submit a new permit application that identifies that the application is for the relocation of an existing sign due to a highway construction project. The new location must meet all local codes, ordinances, and applicable laws.

(d) Notwithstanding other provisions of this section, if only a part of a sign will be located within the highway right of way as a result of the construction project, the sign owner may apply to amend the existing permit for the sign to authorize:

(1) the adjustment of the sign face on a monopole sign that would overhang the proposed right of way to the land on which the sign's pole is located, including adding a second pole if required to support the adjustment for a legal non-conforming monopole sign;

(2) the relocation of the poles and sign face of a multiple sign structure that are located in the proposed right of way from the proposed right of way to the land on which the other poles of the sign structure are located; or

(3) a reduction in the size of a sign structure that is located partially in the proposed right of way so that the sign structure and sign face are removed from the proposed right of way.

(e) A permit application for the relocation of a sign must be submitted within 36 months after the earlier of the date the original sign was removed or the date the original sign was required to move. The sign owner is required to continue to renew the sign permit and pay the permit renewal fee for the sign to remain eligible for relocation.

## Utah

### **10-9a-513**

Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt.

(1) (a) A municipality is considered to have initiated the acquisition of a billboard structure by eminent domain if the municipality prevents a billboard owner from:

(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism;

(ii) except as provided in Subsection (1)(c), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;

(iii) structurally modifying or upgrading a billboard; or

(iv) relocating a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is:

(A) within 2,640 feet of its previous location;

(B) no closer than 500 feet from an off-premise sign existing on the same side of the street or highway; and

(C) (I) the billboard owner has submitted a written request under Subsection 10-9a-511(3)(c); and

(II) the municipality and billboard owner are unable to agree, within the time provided in Subsection 10-9a-511(3)(c), to a mutually acceptable location.

(b) A billboard owner structurally modifying or upgrading a billboard under Subsection (1)(a)(iii) or relocating the billboard under Subsection (1)(a)(iv):

(i) may, as the owner determines:

(A) erect the billboard:

(I) to a height that is at least the same as, but no higher than, the previous use or structure, unless the municipality's ordinances allow or the municipality consents to a higher structure; and

(II) to a height and angle to make it clearly visible to traffic on the main traveled way of the street or highway on which the billboard is located; and

(B) install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before its relocation; and

(ii) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

(c) A municipality's denial of a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard does not constitute the initiation of acquisition by eminent domain under Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:

(i) by the billboard applicant in the application; and

(ii) regarding the placement or erection of the billboard.

(2) Notwithstanding Subsection (1) and Section 10-9a-512, a municipality may remove a billboard without providing compensation if:

(a) the municipality determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

(A) is structurally unsafe;

(B) is in an unreasonable state of repair; or

(C) has been abandoned for at least 12 months;

(b) the municipality notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (2)(a)(i) and (ii);

(c) the owner fails to remedy the condition or conditions within:

(i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (2)(b); or

(ii) if the condition forming the basis of the municipality's intention to remove the billboard

is that it is structurally unsafe, ten business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (2)(b); and

(d) following the expiration of the applicable period under Subsection (2)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(3) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than its owner or the owner acting through its contractors.

(4) A permit issued, extended, or renewed by a municipality for a billboard remains valid from the time the municipality issues, extends, or renews the permit until 180 days after a required state permit is issued for the billboard if:

(a) the billboard requires a state permit; and

(b) an application for the state permit is filed within 30 days after the municipality issues, extends, or renews a permit for the billboard.

### **Virginia**

#### **§ 33.1-95.2.**

Adjustment or relocation of billboard signs in the event of exercise of eminent domain.

A. Whenever land is acquired due to the widening, construction, or reconstruction of the highways of the Commonwealth as defined in § 33.1-351 by purchase or by use of the power of eminent domain and upon such land is situated a lawfully erected billboard sign as defined in § 33.1-351, such billboard sign may be relocated as provided for in this section.

B. Notwithstanding any other provision of law, if a billboard sign meets all requirements under the provisions of Title 33.1 but is considered nonconforming solely due to local ordinance, the owner of the billboard sign, at his sole cost and expense, shall have the option to relocate the billboard sign to another location as close as practicable on the same property, adjusting the height or angle of the billboard sign to a height or angle that restores the visibility of the billboard sign to the same or comparable visibility as before the taking, provided the new location also meets all requirements of Title 33.1.

C. Nothing in this section shall authorize the owner of a billboard sign to increase the size of the sign face, and the provisions of § 33.1-370.2 shall be applicable to any relocation.

## Local Relocation of Nonconforming Outdoor Advertising Signs in Lieu of Acquisition

One example of a successful relocation program is in the City of Cleveland, which has an ordinance that allows relocation in lieu of acquisition.

### City of Cleveland

The amended Cleveland, OH billboard ordinance follows:

#### Section 350.10 (2003)

*(L) Nonconforming Billboards. Notwithstanding the provisions of Section 350.19, a legal nonconforming billboard may be replaced or may be reconstructed to an extent greater than otherwise permitted if the City Planning Commission determines that such replacement or reconstruction will satisfy the following conditions:*

*(1) Site and Design Improvements. The site of the new or reconstructed billboard shall be landscaped and otherwise improved, through use of an ornamental base or frame, a streamlined support structure, or similar features effective in improving the appearance of the site. At a minimum, evergreen shrubs, at least three (3) feet in height at the time of planting and four (4) feet in height after two (2) growing seasons, shall be planted at maximum intervals of four (4) feet along any side of the base of the billboard oriented toward the public street. Such planting shall extend at least the full width of the billboard panel. In addition, all portions of the parcel (s) of land on which the billboard site is located shall be planted with grass or other suitable vegetation ground cover between the billboard and all public streets abutting the parcel (s).*

*(2) Degree of Nonconformity. The new or reconstructed billboard shall be no greater in size, height, number of panels, or any panel dimension than is the existing billboard, nor shall the new or reconstructed billboard be less conforming to any zoning regulation than is the existing billboard.*

*(3) Location. The new or reconstructed billboard shall be placed in precisely the same location as the existing billboard unless the City Planning Commission determines that a different location on the same parcel of land would be more effective in meeting the intent of the sign regulations, as stated in Section 350.01*

*(4) Sign Type. With respect to the “sign types” defined in division (f) of Section 350.03, the new or reconstructed billboard shall be the same type as the existing billboard unless the City Planning Commission determines that a different sign type would be more compatible with the subject property or nearby properties.*

*(5) Changeable Copy. The new or reconstructed billboard may incorporate automatic changeable copy only if such copy is limited to a single billboard panel or two back to back billboard panels and only if each such panel replaces two or more billboard panels on a single parcel of property or two or more billboard panels on adjacent properties. The replacement billboard panel shall not be larger than any of the billboard panels it is replacing. In the case of a sign utilizing changeable copy, each message shall remain fixed for at least eight (8) seconds.*