

24-56-117. Real property acquisition policies.

(1) Any acquiring agency or political subdivision of the state which acquires real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of such program or project shall comply with the following policies:

(a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property; except that the department of transportation may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value.

(c) Before the initiation of negotiations for acquisition of real property, an amount shall be established which it is reasonably believed is just compensation therefor, and such amount shall be offered for the property. In no event shall such amount be less than the approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of and summary of the basis for the amount established as just compensation. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(d) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or before there is deposited with the court, in accordance with applicable law, for the benefit of the owner an amount not less than the approved appraisal of the fair market value of such property or the amount of the award of compensation in the condemnation proceeding of such property.

(e) The construction or development of a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least ninety days' written notice of the date by which such move is required.

(f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the acquiring agency on

short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(g) In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other action coercive in nature be taken to compel an agreement on the price to be paid for the property.

(h) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(i) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

(j) A person whose real property is being acquired in accordance with this article may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, any part thereof, any interest therein, or any compensation paid therefor to an agency, as such person shall determine.

(k) As used in this section, "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(2) For the purposes of this section, "acquiring agency" means a state agency which has the authority to acquire property by eminent domain under state law and a state agency or person which does not have such authority to the extent provided by the department of transportation by regulation.

(3) The requirements of this section shall not apply to any acquiring agency or political subdivision of the state that acquires real property for a program or project for which federal financial assistance will be available from the rural utilities service of the United States department of agriculture for all or any part of the cost of such program or project.

Source: L. 71: p. 678, § 1. **C.R.S. 1963:** § 69-10-17. **L. 89:** IP(1) and (1)(b) amended and (1)(j), (1)(k), and (2) added, pp. 1083, 1084, §§ 12, 13, effective March 31. **L. 91:** (1)(b) and (2) amended, p. 1066, § 33, effective July 1. **L. 2002:** (3) added, p. 55, § 1, effective July 1.