

571—26.3(316) Replacement housing payments for homeowners.

26.3(1) A homeowner or a mobile homeowner who is displaced from the subject dwelling who has owned and occupied the subject dwelling in whole or in part or who has owned the mobile home and has occupied the mobile home in whole or in part or who has owned the mobile home and has occupied the mobile home on the site for not less than 180 consecutive days immediately prior to the date of vacation or the initiation of negotiation for the acquisition of the subject property and who purchases and occupies a decent, safe and sanitary replacement dwelling within the time limitations specified in Iowa Code section 316.5(2) and by these rules may receive an additional payment. Such payment should be in the amount, if any, when added to acquisition cost of the dwelling acquired equals the actual cost which the owner has paid for the replacement dwelling or the amount determined by the agency as reasonably necessary to purchase a comparable replacement home, or mobile home, or mobile home and site, or mobile homesite, whichever is less, not to exceed the payment limitations established by Iowa Code chapter 316 and by these rules.

a. Replacement housing payment offers and payment determinations for such homeowners shall be made on the basis of a survey of market information applicable to the owner's particular circumstance, the availability of comparable replacement housing and the condition and location of the subject dwelling.

b. A relocatee who has entered into a contract for the construction or rehabilitation of a replacement dwelling, and for reasons beyond the relocatee's reasonable control, cannot occupy the replacement dwelling within the time limitations specified in Iowa Code section 316.5(2), shall be considered to have purchased and occupied the dwelling as of the date of such contract. Replacement housing payments under these circumstances shall be deferred until actual occupancy is accomplished.

c. Where a mobile home is acquired from an otherwise eligible displaced mobile homeowner who rents the site, the mobile homeowner shall be eligible to receive the lesser of that payment authorized by Iowa Code section 316.5 and by these rules or a rental replacement housing payment or a purchase down payment authorized by Iowa Code section 316.6 and by these rules.

26.3(2) *General provisions for replacement housing payments.* Offers for replacement housing payments and payment determinations for payments made by authority of Iowa Code sections 316.5 and 316.6 and by these rules shall be made in accord with these provisions:

a. If two or more eligible families occupy the same single-family dwelling unit each family is eligible for a replacement housing payment if they relocate to separate dwelling units.

b. If two or more eligible individuals with no identifiable head of household occupy the same single-family dwelling unit they are to be considered as one family for replacement housing payment purposes and any and all relocation assistance payments are to be distributed equally.

c. When all individuals do not relocate to decent, safe and sanitary housing the agency shall determine and pay those individuals who do relocate into decent, safe and sanitary housing a pro rata share of the appropriate payments that would have been received if all individuals had relocated together in the same ownership or rental status as they had at the time of the initiation of negotiations.

d. Where only a portion of the subject property is being acquired and the subject dwelling is located on a tract normal for residential use in the area, the maximum replacement housing payment shall be determined by subtracting the agency's approved before-value appraisal of the property as a whole, from the estimated selling price of a comparable dwelling on a lot typical for the area.

e. Where only a portion of the subject property is being acquired and the subject dwelling is located on a tract larger than normal for residential use in the area, replacement housing payment offers and payments shall be determined by estimating the value of the dwelling at the present location on a homesite typical in size for the area and deducting this amount from the selling price of a comparable dwelling on a site typical for the area.

f. Where a dwelling is located on a tract where the fair market value is established on a higher and better than residential use replacement housing payment offers and payments shall be determined by estimating the value of the dwelling at the present location on a homesite typical for the area and zoned for residential use and deducting this amount from the selling price of a comparable dwelling on a typical residential homesite for the area.

g. Where displaced individuals or families occupy living quarters on the same premises as a displaced business, farm or nonprofit organization, such individuals or families are separate displaced persons for purposes of determining entitlement to relocation payments.

h. Replacement housing payment offers and payments to owners of multifamily dwellings who occupy one unit shall be determined by estimating that difference, if any, between the value of that portion of the entire property being acquired which represents the owner's living unit and the value of a living unit on the most comparable available property. Where available the comparable dwelling should be the same as that acquired, i.e., if the acquired property is a triplex, then the comparable should be a triplex. If the comparable is a triplex, the replacement housing payment is based on the value of only one of the three units; if a duplex, the payment is based on only one of the two units; if a single-family dwelling, the payment is based on the entire value of the dwelling. If similar comparables are not available, then structures of the next lowest density must be used. If there are not any available comparable multifamily structures to be found, then the comparison of the owner's living unit would be to a single-family residence. A higher density structure should never be used as a comparable.

26.3(3) Comparable replacement housing available. Where comparable replacement housing is available, the replacement housing payment offers and payment determination for eligible homeowners and mobile homeowners shall be the difference between the estimated selling price of the most comparable of at least three comparable dwellings available in the community and the acquisition cost of the subject dwelling but shall not exceed the limitations established by Iowa Code section 316.5 and these rules.

26.3(4) Comparable replacement housing no longer available. When comparable replacement housing at the time of the move is no longer available, replacement housing payment offers made to eligible homeowners and mobile homeowners shall be revised. In such a case the revised replacement housing payment offer and payment determination shall be based on available housing which is equal or better and meets the other comparable criteria but shall not exceed the limitations established by Iowa Code section 316.5 and by these rules.

26.3(5) Absence of available comparable rural replacement housing. In the absence of available comparable replacement rural housing, the replacement housing payment offer and payment determination to eligible homeowners and mobile homeowners shall be the difference between the acquisition cost of the subject dwelling and the estimated cost of constructing a new and reasonable comparable dwelling adequate for the needs of the relocatee but shall not exceed the limitations established under Iowa Code section 316.5 and by these rules.

a. The estimated costs of a new dwelling shall be expressed as an average cost per square foot for the building plan, the estimated cost of a typical improved lot where relocating to an urban area, or approximately one acre where remaining in a rural area.

b. Where necessary the estimated cost of a well, septic system, laterals and landscaping shall also be included.

c. All such cost estimates shall be obtained from qualified contractors regularly engaged in building housing in the project area.

26.3(6) Subject dwelling moved as replacement housing. Replacement housing payment offers and payment determinations for eligible homeowners and mobile homeowners electing to move the subject dwelling for purposes of replacement housing shall be the difference, if any, between the acquisition cost of the subject dwelling and the estimated cost of reestablishing the subject dwelling on a suitable foundation in a comparable and decent, safe and sanitary condition, but shall not exceed the estimated cost of a new dwelling adequate for the needs of the relocatee nor the limitations established by Iowa Code section 316.5 and by these rules.

a. The estimated cost to reestablish the subject dwelling shall include the cost of a typical improved lot in town where relocating to an urban area or approximately one acre where relocating to a rural area.

b. Where necessary the estimated cost of a well, septic system, laterals and landscaping shall also be included. All such cost estimates shall be obtained from qualified contractors furnishing such services.

26.3(7) *Increased interest payment determinations.* Increased interest payments may be made to compensate a displaced homeowner or mobile homeowner for the increased interest cost that is required for financing a replacement dwelling as provided in Iowa Code section 316.5(1) “b” and these rules.

a. The increased interest payment may be paid only when the dwelling acquired by the state was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 consecutive days prior to the first contract for acquisition or the date established for the commencement of acquisition by a notice of the agency’s intent to acquire the subject property and the mortgage on the replacement dwelling bears a higher rate of interest than the mortgage interest rate on the acquired dwelling.

b. The increased interest payment will be based on, and limited to, the lesser of the present worth of the right to receive the monthly difference in mortgage payments on the existing mortgage using the old and new interest rates; or the present worth of the right to receive the monthly difference in mortgage payments on the new mortgage using the old and new interest rates.

c. The amount of increased interest payment will be computed on relocation assistance “Computation of Increased Interest Cost” forms, copies of which are attached to these rules. The computation will be made in accordance with the following: The monthly principal and interest payment difference caused by the change in interest rate is computed for both the existing mortgage and new mortgage for their respective remaining terms and amounts. The old and new interest rates are used in each case. The present worth of the monthly interest differences found in the above is computed for each mortgage by discounting the monthly difference at the savings deposit interest rate for the remaining term of each mortgage. The lesser of the amounts so derived is the increased interest payment. To the amount so derived will be added the amount actually paid by the purchaser as points on the amount refinanced but not to exceed an amount which would have been paid if the original mortgage balance was refinanced, or a fee actually charged as an origination or service fee (not to exceed one percent of the mortgage amount as shown above) if such fees are normal to real estate transactions in the area.

d. The discount rate shall be the prevailing rate of interest paid on passbook savings account deposits by commercial banks in the general area in which the dwelling is located. In the case of a partial acquisition and where the dwelling is located on a tract normal for residential use in the area, the interest payment shall be reduced to the percentage ratio that the acquisition price bears to the before-value of the tract as a whole; except, the reduction shall not apply when the mortgagee requires the entire mortgage balance to be paid because of the acquisition and it is necessary to refinance.

e. In the case of a partial acquisition and where a dwelling is located on a tract larger than normal for residential use in the area, the interest payment shall be reduced to the percentage ratio that the value of the residential portion bears to the before-value of the tract as a whole. This reduction shall apply whether or not it is required that the entire mortgage balance be paid.

f. The interest payment on multiuse properties shall be reduced to the percentage ratio that the residential value of the multiuse property bears to the before-value of the tract as a whole.

g. If a dwelling is located on a tract where the fair market value is established on a higher and better than residential use, and if the mortgage is based on residential value, the interest payment shall be computed as provided in the regular increased interest computation. If the mortgage is obviously based on the higher use, however, the interest payment shall be reduced to the percentage ratio that the estimated residential value of the parcel has to the before-value of the tract as a whole.

26.3(8) *Determining closing costs payments.* Payments to eligible homeowners and mobile homeowners pursuant to Iowa Code section 316.5(1) “c” shall be limited to the reasonable cost of the following closing costs necessary and incident to the purchase of a replacement dwelling.

a. Costs eligible for payment include legal, closing and related costs including title search, the cost of preparing conveyance documents, notary fees, surveys, preparing drawings or plats and recording fees. Lender’s, FHA or VA appraisal fees, FHA or VA application fees and a certification of structural soundness when required by the lender or FHA or VA, may be paid. The cost of a credit report, title opinion, escrow fees and sales or transfer taxes may be paid.

b. No fee, cost charge or expense shall be paid as a closing cost which is not necessary and incident to the purchase of a replacement dwelling nor which is determined to be a part of the debt service or finance charge under the Truth in Lending Act, Title I, Public Law 90-321.

26.3(9) *Limitation on housing payment for homeowners and certain others.* Replacement housing payments to homeowners and certain others shall be limited by the following:

a. No replacement housing or other payment shall be made by authority of Iowa Code section 316.5 or 316.6 or these rules unless and until the agency, or its authorized designee, has inspected the replacement dwelling and determined that it meets the standards of decent, safe and sanitary housing. All such determinations shall be made in writing and shall be signed by the agent or person making the same.

b. No claim for a payment under Iowa Code section 316.5 or 316.6 or these rules shall be paid where it is filed later than six months after the expiration of the one-year period specified in Iowa Code section 316.5(2), except that in the case of an appeal from the awards of a compensation commission, such period shall be extended to six months after final adjudication.

c. If a dislocated homeowner or mobile homeowner is otherwise qualified for a payment under Iowa Code section 316.5 and these rules, but has previously received a payment under Iowa Code section 316.6(1) and these rules, the amount of such payment so received shall be deducted from the amount to which the owner is determined entitled under Iowa Code section 316.5 and these rules. In no event shall the combined payments exceed \$15,000.

d. A displaced homeowner who is otherwise eligible for a replacement housing payment under Iowa Code section 316.5 or 316.6 and these rules who acquires replacement housing after the initiation of negotiations on the project but before the first contact for the acquisition of the subject dwelling may be eligible for such payment only if the move from the subject dwelling is subsequent to the first contact for its acquisition. No payment shall be made in any such case until the subject dwelling has been acquired.