

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

3

HOUSE BILL 429
Committee Substitute Favorable 4/8/03
Senate Commerce Committee Substitute Adopted 6/22/04

Short Title: Monetary Comp./Outdoor Advertising.

(Public)

Sponsors:

Referred to:

March 12, 2003

A BILL TO BE ENTITLED

1
2 AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PAY MONETARY
3 COMPENSATION FOR REMOVAL OF LAWFULLY ERECTED
4 OFF-PREMISES OUTDOOR ADVERTISING SIGNS AND TO AUTHORIZE
5 LOCAL GOVERNMENTS TO ENTER INTO RELOCATION AND
6 RECONSTRUCTION AGREEMENTS WITH OWNERS OF NONCONFORMING
7 OFF-PREMISES OUTDOOR ADVERTISING SIGNS.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Chapter 153A of the General Statutes is amended by adding a
10 new section to read:

11 **"§ 153A-143. Regulation of outdoor advertising.**

12 (a) As used in this section, the term 'off-premises outdoor advertising' includes
13 off-premises outdoor advertising visible from the main-traveled way of any road.

14 (b) A county may require the removal of an off-premises outdoor advertising
15 sign that is nonconforming under a local ordinance and may regulate the use of
16 off-premises outdoor advertising within the jurisdiction of the county in accordance
17 with the applicable provisions of this Chapter.

18 (c) No county may enact or amend an ordinance to require the removal of any
19 nonconforming, lawfully erected off-premises outdoor advertising sign without the
20 payment of monetary compensation to the owners of the off-premises outdoor
21 advertising. The payment of monetary compensation is not required if:

22 (1) The off-premises outdoor advertising is determined to be a public
23 nuisance or detrimental to the health or safety of the populace; or

24 (2) The removal is required for road widening or other governmental
25 development projects, and the county allows the off-premises outdoor
26 advertising to be relocated to an equally visible and comparable
27 location.

1 (d) Monetary compensation is the fair market value of the off-premises outdoor
2 advertising in place immediately prior to its removal and without consideration of the
3 effect of the ordinance or any diminution in value caused by the ordinance requiring its
4 removal, less the fair market value of the off-premises outdoor advertising immediately
5 after its removal.

6 (1) Monetary compensation may be determined based on the following
7 factors:

8 a. The factors listed in G.S. 105-317.1(a).

9 b. The cost of materials and labor used in constructing the
10 advertising.

11 c. The purchase price of the rights to erect and maintain the
12 advertising.

13 d. The income derived from the advertising.

14 e. The sales price of similar property.

15 f. The listed property tax value of the property and any documents
16 regarding value submitted to the taxing authority.

17 (2) Unless agreed to by the county, the amount of monetary compensation
18 required to be paid under this section shall not exceed five times the
19 average amount of the annual gross revenue associated with the
20 off-premises outdoor advertising, less any placement or agency fees,
21 over the preceding five years.

22 (e) In lieu of monetary compensation, a county may enter into a relocation,
23 reconstruction, or removal agreement with the owner of a nonconforming off-premises
24 outdoor advertising sign. An agreement under this subsection may allow for the removal
25 of the advertising after a set period of time in lieu of monetary compensation. A county
26 may adopt an ordinance or resolution providing for a relocation, reconstruction, or
27 removal agreement.

28 (f) A county shall give written notice of its intent to require removal of
29 off-premises outdoor advertising by sending a letter by certified mail to the last known
30 address of the owner of the outdoor advertising and the owner of the property on which
31 the outdoor advertising is located.

32 (g) If the parties have not entered into an agreement under subsection (e) of this
33 section or agreed to the amount of monetary compensation under subsection (d) of this
34 section within 120 days after the initial notification by the county, the parties shall enter
35 into nonbinding arbitration to resolve their disagreements. The American Arbitration
36 Association rules shall apply to the arbitration. If either party disagrees with the
37 arbitration award, the party may bring an action in superior court to determine the
38 amount of monetary compensation to be paid to the owner of the off-premises outdoor
39 advertising under subsection (d) of this section.

40 (h) A county has up to three years from the effective date of an ordinance enacted
41 under this section to pay monetary compensation to the owner of the off-premises
42 outdoor advertising provided the affected property remains in place until the
43 compensation is paid.

1 (i) This section does not apply to any ordinance in effect on the effective date of
2 this section. A county may amend an ordinance in effect on the effective date of this
3 section so long as the amendment to the existing ordinance does not reduce the period
4 of amortization in effect on the effective date of this section."

5 **SECTION 2.** Chapter 160A of the General Statutes is amended by adding a
6 new section to read:

7 **"§ 160A-199. Regulation of outdoor advertising.**

8 (a) As used in this section, the term 'off-premises outdoor advertising' includes
9 off-premises outdoor advertising visible from the main-traveled way of any road.

10 (b) A city may require the removal of an off-premises outdoor advertising sign
11 that is nonconforming under a local ordinance and may regulate the use of off-premises
12 outdoor advertising within the jurisdiction of the city in accordance with the applicable
13 provisions of this Chapter.

14 (c) No city may enact or amend an ordinance to require the removal of any
15 nonconforming, lawfully erected off-premises outdoor advertising sign without the
16 payment of monetary compensation to the owners of the off-premises outdoor
17 advertising. The payment of monetary compensation is not required if:

18 (1) The off-premises outdoor advertising is determined to be a public
19 nuisance or detrimental to the health or safety of the populace; or

20 (2) The removal is required for road widening or other governmental
21 development projects, and the city allows the off-premises outdoor
22 advertising to be relocated to an equally visible and comparable
23 location.

24 (d) Monetary compensation is the fair market value of the off-premises outdoor
25 advertising in place immediately prior to its removal and without consideration of the
26 effect of the ordinance or any diminution in value caused by the ordinance requiring its
27 removal, less the fair market value of the off-premises outdoor advertising immediately
28 after its removal.

29 (1) Monetary compensation may be determined based on the following
30 factors:

31 a. The factors listed in G.S. 105-317.1(a).

32 b. The cost of materials and labor used in constructing the
33 advertising.

34 c. The purchase price of the rights to erect and maintain the
35 advertising.

36 d. The income derived from the advertising.

37 e. The sales price of similar property.

38 f. The listed property tax value of the property and any documents
39 regarding value submitted to the taxing authority.

40 (2) Unless agreed to by the city, the amount of monetary compensation
41 required to be paid under this section shall not exceed five times the
42 average amount of the annual gross revenue associated with the
43 off-premises outdoor advertising, less any placement or agency fees,
44 over the preceding five years.

1 (e) In lieu of monetary compensation, a city may enter into a relocation,
2 reconstruction, or removal agreement with the owner of a nonconforming off-premises
3 outdoor advertising sign. An agreement under this subsection may allow for the removal
4 of the advertising after a set period of time in lieu of monetary compensation. A city
5 may adopt an ordinance or resolution providing for a relocation, reconstruction, or
6 removal agreement.

7 (f) A city shall give written notice of its intent to require removal of off-premises
8 outdoor advertising by sending a letter by certified mail to the last known address of the
9 owner of the outdoor advertising and the owner of the property on which the outdoor
10 advertising is located.

11 (g) If the parties have not entered into an agreement under subsection (e) of this
12 section or agreed to the amount of monetary compensation under subsection (d) of this
13 section within 120 days after the initial notification by the city, the parties shall enter
14 into nonbinding arbitration to resolve their disagreements. The American Arbitration
15 Association rules shall apply to the arbitration. If either party disagrees with the
16 arbitration award, the party may bring an action in superior court to determine the
17 amount of monetary compensation to be paid to the owner of the off-premises outdoor
18 advertising under subsection (d) of this section.

19 (h) A city has up to three years from the effective date of an ordinance enacted
20 under this section to pay monetary compensation to the owner of the off-premises
21 outdoor advertising provided the affected property remains in place until the
22 compensation is paid.

23 (i) This section does not apply to any ordinance in effect on the effective date of
24 this section. A city may amend an ordinance in effect on the effective date of this
25 section to extend application of the ordinance to off-premises outdoor advertising
26 located in territory acquired by annexation or located in the extraterritorial jurisdiction
27 of the city. A city shall not amend an ordinance in effect on the effective date of this
28 section to reduce the period of amortization in effect on the effective date of this
29 section."

30 **SECTION 3.** Section 1 of S.L. 2003-432 is repealed.

31 **SECTION 4.** This act is effective when it becomes law.