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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable William H. Harris  
President, Alabama State University  
Office of the President  
Montgomery, Alabama 36101

Relocation Assistance and Real  
Property Acquisition Policies Act –  
Retroactive Provisions – Colleges  
and Universities

Alabama State University does not have authority to make payments to displaced homeowners pursuant to Act No. 99-582 for contracts fully executed prior to its enactment where the condition is phrased in terms of additional sources of funding rather than additional authority to make the payments. In any event, displaced homeowners may wish to file a claim for payment from Alabama State University with the State Board of Adjustment.

Dear Dr. Harris:

This opinion of the Attorney General is issued in response to your request on behalf of the Alabama State University.

QUESTION

Does Alabama State University have the authority to pay relocation assistance expenses to displaced persons pursuant to the enactment of the Alabama Relocation Assistance and Real Property Acquisition Policies Act of 1999, where the sales contract provides that such expenses

will be paid if “additional funding . . . be located or obtained from any source?”

### FACTS AND ANALYSIS

Alabama State University bought real property from homeowners in the Bel Air subdivision of Montgomery, Alabama. The contract executed by Alabama State University and the homeowners provided, in pertinent part:

Should additional funding for Bel Air residents be located or obtained from any source for moving expenses or for any other purposes, seller shall be entitled to receive the full compensation of whatever amount established.

After the date of the sale or sales in question, the Alabama Legislature enacted the Alabama Relocation Assistance and Real Property Acquisition Policies Act of 1999, Act No. 99-582, which requires state agencies and state institutions to provide relocation assistance to people who are displaced by the purchase of their property by the State. In a nutshell, this Act recognizes that in a forced sale of property by condemnation, or under threat of condemnation, the mere payment of the fair market value of the property to the homeowner does not totally compensate him for the damages caused by the sale, the expenses of moving to another home, for example. The Act authorizes state agencies and state institutions to pay additional sums to the homeowner above and beyond the fair market value of the real property to make him whole. The Act does not purport to be retroactive.

Succinctly stated, the question presented is whether the enactment of Act No. 99-582 satisfies the condition contained in the contract that expenses would be paid to the homeowners if an additional source of funding is located so that Alabama State University is under an obligation to make additional payments to the homeowners pursuant to it. The wording of the condition precludes any payment to the Bel Air homeowners pursuant to Act No. 99-582. As quoted above, the contract stated that expenses could be paid if “additional funding” became available. Act No. 99-582 does not provide an additional source of funding, but rather provides the source of *authority* to make such payments. Thus, the passage of Act No. 99-582 does not breathe life into the condition contained in the contract. If the condition had been phrased in terms of additional

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authority, the result might be different. In any event, displaced homeowners may wish to consider filing a claim for payment from Alabama State University with the State Board of Adjustment.

### CONCLUSION

Alabama State University does not have the authority to make payments to displaced homeowners for expenses pursuant to Act No. 99-582 for contracts fully executed prior to its enactment where the condition is phrased in terms of additional sources of funding rather than additional authority to make the payments. In any event, displaced homeowners may wish to file a claim for payment from Alabama State University with the State Board of Adjustment.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Jack W. Wallace, Jr., Legal Division, Department of Examiners of Public Accounts.

Sincerely,

BILL PRYOR  
Attorney General

By:



CAROL JEAN SMITH  
Chief, Opinions Division

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