

Wisconsin Relocation Rights



Business

This brochure is a summary of services and payments available for business owners and tenants displaced by a public project. For more details on state relocation law and regulations, please contact the displacing agency or refer to Wis. Stat. §§ 32.185-32.27 & Wis. Admin. Code Ch. Adm 92.

September 2018

UNIFORM RELOCATION ACT (49 C.F.R. pt. 24)

The federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) is applicable when a displacing agency undertakes a project that receives federal financial assistance. **NOTE:** This brochure focuses on state relocation rules. Payments and services may be different under the URA. The displacing agency should advise a displaced person of any eligibility for payments and services under the URA.

INTRODUCTION

When an agency undertakes a publicly-funded improvement project, it may be necessary to move people from their businesses or farms. If a public project displaces you, the displacing agency must provide certain benefits and services to ensure that you experience minimum loss and inconvenience. This brochure aims to help you understand your relocation rights, which are in addition to the acquisition payments that would normally be made for the purchase of real property for public use, if you are displaced from your business or farm.

RELOCATION TERMS

An agency must provide property owners and potentially displaced persons with relocation information prior to displacement.

If a public hearing is held for a project which may involve property acquisition and displacement of a person, the following must be provided: (1) general information about relocation services and payments; (2) a statement that the agency shall prepare a relocation plan for approval by DOA prior to acquisition and that persons potentially impacted by the project will be contacted to obtain information to prepare the plan; (3) identification of project boundaries and

an estimate of the number of residential and nonresidential properties to be acquired; (4) a statement that a person who moves prematurely may jeopardize relocation eligibility and that sufficient time to relocate will be provided; and (5) the name, address and telephone number of an agency representative to contact with questions.

When an agency first contacts a rental property owner to obtain information necessary for the preparation of a relocation plan, it must provide the following information: (1) a description of the nature of the proposed project; (2) notice to the owner that the tenants are being contacted to obtain information to prepare the plan; (3) caution to the owner against eviction of tenants before acquisition; (4) explanation that the tenants are being advised not to move prematurely; and (5) notice that in the event the tenants move before acquisition, an owner may qualify for a rent loss payment.

The agency must provide a tenant or owner-occupant of a property the following information: (1) a statement describing the nature of a proposed project; (2) a warning against a premature move which may jeopardize relocation entitlements, (3) the date acquisition will begin; (4) a summary of relocation assistance and benefits; and (5) the contact information of an agency representative to contact with questions.

RELOCATION PLAN

A displacing agency must prepare, submit and have DOA approve a relocation plan before initiating negotiations for property acquisition. The plan aims to ensure that an agency will provide adequate relocation payments and services, and to determine whether displaced persons can be sufficiently relocated.

ADVISORY SERVICES

The displacing agency must provide sufficient relocation assistance to displaced persons. Through ongoing interaction with the displaced person, the agency can provide tailored services including: finding suitable replacement property; relocation payment eligibility; move arrangements; filing relocation claims; and providing appeal procedure information.

RELOCATION PAYMENTS

Displaced business owners and tenants may be eligible for relocation payments including move, search, incidental, business replacement, and business reestablishment expenses. **NOTE:** If both federal and state/local dollars are involved, to the extent that federal and state law provide for different benefit amounts, the displaced person is eligible for whichever amount is greater.

REPLACEMENT BUSINESS

An owner or tenant occupied business or farm operation that has operated for at least one year prior to initiation of negotiations may be eligible for a replacement business payment. If the displacing agency is a village, town or city, the payment may not exceed **\$100,000** for an **owner-occupant**, or **\$80,000** for a **tenant-occupant**. A replacement business payment compensates a displacee for the difference between the acquisition price of a property and the cost of purchasing or renting a comparable replacement and includes "reasonable project costs" that a displaced business or farm must reasonably incur to make a new location comparable. Reasonable project costs may include capital costs, financing costs, professional services, administrative costs, and construction costs. Owner-occupants may also be eligible for an increased mortgage interest payment and incidental expenses incurred in purchasing a replacement property.

MOVING COSTS

The displacing agency will compensate you for moving to a new location. You may choose payment based on one of the following: (1) actual reasonable cost including actual direct loss of tangible personal property and actual expense in searching for a replacement business; or (2) a fixed payment in lieu of actual moving expenses.

ACTUAL REASONABLE COST

You may hire a commercial mover or accomplish the move using your employees or yourself. If you use a commercial mover, bids or estimates may be required to establish a reasonable cost. Receipts and an inventory of moved items are required. If you move yourself, you may be paid based on the lower of two acceptable bids, or when a bid is not available, your payment will be based on actual and reasonable expenses supported by evidence of the expense. In order to be reimbursed, you must incur the expense and submit a claim supported by receipts. Eligible expenses include: moving persons and personal property; packing, crating and unpacking; storage for up to 12 months; disconnecting, dismantling, removing, reassembling, reconnecting and reinstalling machinery, equipment or personal property not acquired by the agency; property lost, damaged or stolen through no personal fault while insurance is unavailable; relettering trucks and signs; replacement of obsolete stationary; and other reasonable expenses.

LOSS OF TANGIBLE PROPERTY

You may be compensated for actual direct loss of personal property that you could move but do not, provided you make a good faith effort to sell the property. Receipts for selling expenses and sale proceeds are required to be reimbursed.

SEARCHING EXPENSE

You may be reimbursed for costs incurred while searching for a new business including: transportation; meals and lodging; reasonable value for your time; and real estate broker or agent fees. Search costs are capped at **\$1,000**. **NOTE:** No move should begin until you contact the agency to learn of any conditions that may affect eligibility.

REESTABLISHMENT EXPENSE

A business, farm or nonprofit organization may be eligible for a payment of up to **\$10,000** for expenses actually incurred in relocating and reestablishing at a replacement site. A person who is eligible for a replacement business payment of at least \$10,000 is generally not also eligible for a reestablishment payment.

FIXED PAYMENT-IN-LIEU

The fixed payment-in-lieu provides an alternative compensation method for actual moving and reestablishment expenses. This payment is based on the average annual net earnings of the business or farm operation for the two years before displacement. Nonprofit organization "earnings" are based on the difference between revenues and administrative expenses. This payment may be between **\$1,000** and **\$20,000**. Eligibility for this payment is as follows:

- **Business and Nonprofit Organizations:** The operation must be unable to relocate without a substantial loss of existing patronage, and must not be part of an enterprise having more than three other similar establishments not being displaced.
- **Farms:** The farm must be discontinued at the present location or the entire farm relocated elsewhere. To qualify if only part of the farm is acquired, the remainder must be an uneconomic unit for the same type of farming operation or substantially changed because of the acquisition; or the acquisition caused physical displacement from the farm operation.

TEMPORARY DISPLACEMENT

Persons temporarily relocated are eligible for actual out-of-pocket expenses in moving to and from a temporary location, in addition to expenses for increased rent or utility costs.

OCCUPANCY

Your business will not be required to move without 90 days written notice. An occupant shall have rent-free use of the property for 30 days beginning the 1st or 15th day of the month after title vests in the agency, whichever is sooner. Rent charged for use of the property between the date of acquisition and date of displacement may not exceed the economic rent or the rent paid to the former owner, whichever is less. **NOTE:** A business will not be required to move until a comparable replacement property is available.

FILING A RELOCATION CLAIM

A relocation claim should be filed as soon as possible after you move and related expenses have been incurred. The displacing agency will provide you with claim forms. Claims must be filed within 2 years after the displacing agency has taken physical possession of the property. It is important that you file proof of expenses incurred, such as receipts and invoices. Agencies should pay relocation expenses promptly.

APPEALS

If you are displaced and not satisfied with your relocation assistance or benefits you may: (1) file an appeal with the displacing agency; (2) file an appeal with DOA; or (3) file an appeal under Wis. Stat. § 32.20. **NOTE:** 2017 WI Act 243 revised Wis. Stat. § 32.20 to include an award of litigation expenses to a claimant if the amount of the judgment exceeds the amount of damages allowed by the condemnor by 15%. This provision remains effective through 12/31/18.

RELOCATION PAYMENTS ARE NOT TAXABLE

State relocation payments are not subject to Wisconsin income tax. Displaced persons should carefully review the tax consequences of relocation payments and are advised to consult qualified tax counsel with any questions.

NOTE: If you are notified that you will be displaced, it is important that you DO NOT move before you learn what you must do to receive the relocation payments and other assistance to which you may be eligible.

This pamphlet is published by the Wisconsin Department of Administration in cooperation with the Attorney General pursuant to Wis. Stat. § 32.26(6). It is not to be construed as legal advice. A displacing agency must make this pamphlet available to a displaced person before initiation of negotiations for acquisition of property for a public project.

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