

## **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 seek qualified tax counsel.

**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 are entitled.

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 intended to be a substitute for legal assistance. A displacing agency must make this pamphlet available to a displaced person before beginning the acquisition of the property for the public project.

The Department of Administration does not discriminate on the basis of disability in the provision of services or in employment. If you need this printed material interpreted in a different form, or if you need assistance in using DOA services, please contact us. Our address and phone number are listed below.

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# Wisconsin Relocation Rights



## **Business**

This brochure is a summary of services and payments available for business owners and tenants who are required to move for public projects. For more details on state relocation law and regulations, please contact the displacing agency or refer to: Wis. Stat. ss. 32.185 - 32.27 & Wis. Adm Code Ch. 92

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## **INTRODUCTION**

When an agency undertakes a public improvement project, it may be necessary to move people from their businesses or farms. If you are displaced by a *public project*, the displacing agency must provide certain benefits and services to ensure minimum loss and inconvenience. This brochure is designed to help you understand your rights if you are required to move from your business or farm.

**NOTE:** Aliens not lawfully present in the U.S. are NOT eligible for relocation assistance.

## **RELOCATION TERMS**

**Business:** Any legal activity, except a farm operation, conducted primarily: for the purchase, sale, lease or rent of property, and to manufacture, process or market a product, commodity, or other personal property; for the sale of a service to the public; by a nonprofit organization; or to advertise a product, commodity, personal property or service by the use of an outdoor advertising display.

**Displacing agency:** A condemnor, state agency, political subdivision of the state, developer, or any other person carrying out a publicly assisted project that causes a person to be displaced.

**Displaced person:** A person who moves real or personal property:

- As a direct result of a property being acquired for a public project; or
- As a result of a nonacquisition activity such as a government financed rehabilitation project.

**Average Annual Net Earnings:** For businesses and farms claiming a fixed payment in lieu of actual moving costs, this is one-half of net earnings, before federal and state income taxes, during the two taxable years prior to displacement.

**Initiation of negotiations:** In acquisition projects, the date the displacing agency initially makes a written monetary offer.

**Public project:** An activity/program receiving public financial assistance and involving:

- Real property acquisition;
- Housing or commercial rehabilitation; or
- A related public construction or improvement project receiving federal financial assistance covered under federal relocation regulation.

**NOTE:** A public project *does not include* displacement caused by natural disasters or voluntary sales. A clearly written voluntary participating agreement voids any claim to state or federal relocation benefits.

## **RELOCATION PLAN**

A displacing agency must prepare, submit and have the Department of Administration (DOA) approve a relocation plan before negotiations begin. The plan describes advisory services and estimated relocation payments, indicating whether displaced persons can be adequately relocated.

## **ADVISORY SERVICES**

The displacing agency, by way of ongoing interaction, can provide tailored services to help in your move including: finding a suitable business replacement location; relocation payment eligibility; move arrangements; filing relocation claims; and providing appeal procedure information.

## **RELOCATION PAYMENTS**

Displaced business owners and tenants may be entitled to relocation, moving and other payments including move, search, replacement, reestablishment and incidental expenses.

**NOTE:** If federal and state/local dollars are involved in the project, the displaced person is eligible for the higher benefit amount.

## **REPLACEMENT BUSINESS**

If you **own and occupy** your business or farm for at least **one year** before initiation of negotiations, and **purchase or rent** a replacement property within **two years** of the date you vacate or receive final payment for the acquired property, you are entitled to a replacement business payment of up to **\$50,000**. If you are a business tenant you are eligible for a replacement business payment of up to **\$30,000**. This payment compensates displaced persons for the difference between the acquisition price of the property and the cost of purchasing or renting a comparable replacement. **Owner occupants** may be eligible for an increased mortgage interest payment and incidental expenses incurred in purchasing a replacement business.

## **MOVING COSTS**

The displacing agency will compensate you for moving yourself and personal property. 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 by using your employees or yourself. If you use a commercial mover, bids or estimates for moving 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 on the basis of 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 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 can 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 expenses; meals and lodging; away from home; reasonable value for your time; and real estate broker or agents fees. Search costs are capped at **\$1,000** under Wisconsin rules and **\$2,500** under federal law.

**NOTE:** No move should begin until you contact the agency to learn of any limitation or condition that may affect your eligibility. For example, you may need to furnish a certified inventory before the move.

## **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. 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 must 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 covering increased rent or utility costs.

## **OTHER INFORMATION**

## **UNIFORM RELOCATION ACT**

A displacing agency undertaking a project receiving federal financial assistance must make any additional payments required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URRA).

## **OCCUPANCY**

You will not be required to move without at least 90 days written notice. Generally, an occupant shall have rent free use of the property for 30 days beginning the 1<sup>st</sup> or 15<sup>th</sup> day of the month after title vests in the agency, whichever is sooner. Thereafter, rent charged for use of a property between the date of acquisition and the date of displacement may not exceed the economic rent or the rent paid to the former owner, whichever is less.

## **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. Generally, 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 including receipts, invoices or other supportive documentation. Agencies should pay relocation expenses promptly.

## **APPEALS**

There are several options for appeal if you are displaced and not satisfied with the relocation assistance offered by the displacing agency, or the relocation benefits you receive. One option is to file an appeal with the displacing agency. Additionally, you may file an appeal with the DOA. Complaint forms are available online. At any time after a claim or decision denial, a displaced person has the right of legal action against the displacing agency, under Wis. Stats. § 32.20 in the court of record in the county where the displacement occurred.