



## **WISCONSIN RELOCATION RIGHTS**

### **BUSINESS, FARM AND NONPROFIT ORGANIZATIONS**

This brochure is a summary of services and payments available for businesses, farms, and nonprofit organizations required to move for public projects. For more details on state relocation law and regulations, please contact the displacing agency or refer to:

Sections 32.185 - 32.27, Wisconsin Statutes Ch. ILHR 222 (COMM 202), Wisconsin Administrative Code

## **INTRODUCTION**

When an agency embarks on a public improvement project, it sometimes becomes necessary to move people from their homes, businesses and farms. If you are displaced by a public project, the displacing agency will provide you with certain benefits and services to ensure that you experience a minimum of loss and inconvenience. This brochure is designed to help you understand your rights when you are required to move from your present location.

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## **RELOCATION TERMS**

### **Business**

Any lawful activity, except a farm operation, conducted primarily:

- for the purchase, sale, lease or rental of property, and for the manufacture, processing, or marketing of products or property;
- for the sale of services;
- by a nonprofit organization;
- to advertise products, personal property, or services by use of outdoor advertising displays.

### **Displacing Agency**

Any acquiring authority, state agency, political subdivision of the state (counties, cities, villages, etc.) or any person carrying out a publicly assisted project that causes a person to be displaced.

### **Displaced Person**

A person who moves, or moves personal property, as a direct result of a property being acquired for a public project. Also considered displaced is a business tenant permanently displaced from a "nonacquisition" activity such as a government financed rehabilitation project.

### **Comparable Replacement Business**

A replacement business that is adequate for the needs of the business and reasonably similar in all major characteristics. It must be available on the market, meet federal, state or local codes and be within reasonable proximity of the business acquired and suited for the same type of business conducted by the displaced business at the time of acquisition.

### **Comparable Replacement Farm Operation**

A replacement that is adequate for the needs of the farmer, and reasonably similar in all major characteristics. It must be within reasonable proximity of the displaced farm operation, be available on the market, meet all applicable federal, state or local codes, and be suited for the same type of farming operation conducted by the displaced person at the time of acquisition.

### **Average Annual Net Earnings**

For businesses and farms claiming a Fixed Payment in Lieu of actual moving costs, it is one-half of net earnings, before federal and state income taxes, during the two taxable years prior to the year of displacement, or such other period determined to be more equitable by the agency.

## **Initiation of Negotiations**

The date the displacing agency makes the first monetary offer to purchase the property.

## **Public Project**

An activity or program receiving public financial assistance including a grant, loan or contribution and involving:

- acquisition of real property;
- housing or commercial rehabilitation;
- a similar public improvement project.

# **RELOCATION SERVICES & PAYMENTS**

## **RELOCATION SERVICES**

The displacing agency will set up an interview with you to determine your specific needs and preferences. The agency then can help you in your move, including providing assistance in finding a suitable replacement business or farm; information on your relocation payment entitlements and rights; and information and referrals to financial institutions and government assistance programs for businesses and farms. The agency will help you through the steps in the process, including assistance in filing relocation claims and information on appeal procedures.

You are assured a reasonable time to move, and that you will not have to move until a comparable replacement is made available to you. The agency will try to minimize any business or farm interruption, and will ensure appropriate timing and help with moving arrangements.

## **RELOCATION PAYMENTS**

The following payments are to be made by the displacing agency to compensate you for moving expenses and the increased cost of buying or renting a replacement property. Generally, you must incur the expense and submit a claim in order to receive payment.

**IMPORTANT:** To ensure eligibility for relocation payments, notify the displacing agency of plans **before** moving or making a commitment to move, buy or rent a replacement property.

## **MOVING COST PAYMENTS**

This payment provides compensation for the cost of moving personal property to a new location. You may choose payment based on

- **Option 1**, Actual Reasonable Cost plus reestablishment Payment, or, if eligible,
- **Option 2**, Fixed Payment-in-Lieu.

### **OPTION 1**

#### **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. If you move yourself, you may be paid on the basis of the lowest of two acceptable bids. In some cases, bids may not be necessary, and your payment will be based on itemized, actual cost. Actual expenses claimed should be supported by receipts.

**Eligible Expenses:**

- Moving persons and personal property
- Packing, crating and unpacking
- Storage, generally not to exceed 12 months
- Insurance to cover loss or damage in transit or storage
- 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 and replacement of obsolete stationary
- Other related moving costs considered reasonable by the displacing agency

**Ineligible Expenses:**

Additional operating expenses or improvements at the new location (some items may qualify under the reestablishment or replacement payments)

- Interest on loans to cover moving expenses
- Loss of goodwill, profits or trained employees
- Moving of structures or other real property you retain

**Direct Loss of Tangible Property**

You may be compensated for actual direct loss if you sell rather than move tangible personal property. A payment for direct loss will generally be made only after you have made a good faith effort to sell the items. Reasonable sale expenses may also be paid. Payment is generally determined as follows:

If the item used in connection with the displaced business or farm is sold and then replaced with a comparable item at the new location, it is the lesser of:

- the replacement cost of the item minus the net proceeds of the sale, or
- the estimated cost of moving the item.
- If the item is sold and not replaced, it is the lesser of:
- the depreciated in-place value of the item, minus the net proceeds of the sale, or
- the estimated cost of moving the item.

**Searching Expense**

Expenses may be incurred by a displaced business or farm to search for a replacement. Costs generally covered include:

- Transportation
- Meals and lodging away from home
- The reasonable value of your time
- The fees of real estate brokers or agents conducting the search

Expenses claimed, except the value of time spent searching, should be supported by receipts. A statement of time spent searching and the hourly wage rate should accompany your claim. In some cases, you may be reimbursed at a maximum hourly rate.

A maximum of \$1,000 of search expenses is considered by law to be reasonable. If you believe a greater amount is justified, contact the agency before you incur searching costs.

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

## **REESTABLISHMENT PAYMENT**

A business, farm or nonprofit organization may also be eligible for a payment **up to** \$10,000 for expenses actually incurred in relocating and reestablishing at a replacement site.

The displacing agency will explain the types of expenditures which may be covered under this payment. A person who is eligible for a replacement payment (see below) of at least \$10,000 is generally not also eligible for a reestablishment payment, except for certain items not otherwise payable under replacement payment procedures.

## **OPTION 2**

### **Fixed Payment-in-lieu**

This “fixed payment” provides an alternative method of compensation for actual moving costs and reestablishment expenses. Payment is based on the average annual net earnings of the business or farm operation for the two years before displacement. For nonprofit organizations, “earnings” are based on the difference between revenues and administrative expenses.

The fixed payment may not exceed \$20,000 nor be less than \$1,000. Eligibility for this payment is determined as follows:

#### **Business and Nonprofit Organizations:**

The operation must be unable to relocate without a substantial loss of existing patronage, and must not be a part of an enterprise having more than three other similar establishments that are 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 as a result of the acquisition; or the acquisition causes physical displacement from the farm operation.

**NOTE:** Except for investor businesses that rent the property to others, it is generally assumed that a business, farm or nonprofit organization will qualify for a fixed payment-in lieu. The burden of proving that an operation does not qualify rests with the displacing agency.

## **TEMPORARY DISPLACEMENT**

Persons who are only temporarily relocated are eligible for actual out-of-pocket expenses in moving to and from a temporary location, plus any increased rent or utility costs or other reasonable expenses incurred in connection with the temporary move.

## **REPLACEMENT BUSINESS AND FARM PAYMENTS**

A replacement business or farm payment is available to compensate eligible businesses (including nonprofit organizations) for the cost of purchasing or renting a comparable replacement. The amount of this payment is **up to** \$50,000 for owner-occupants and **up to** \$30,000 for tenant-occupants. Your actual replacement payment may be less.

### **OWNER-OCCUPANTS**

To be eligible, a person must own the real property being acquired and also own the business or farm operation conducted on the real property for not less than one year before initiation of

negotiations. The person must also purchase a replacement business or farm within two years of the date moved or the date the payment for the acquired property is received, whichever is later.

The replacement payment consists of three parts:

**A differential payment** to make up the difference, if any, between the acquisition price received for the acquired property and the reasonable cost to purchase a comparable replacement, or the actual cost of the replacement, whichever is less. Before you move, the agency should determine the reasonable cost of purchasing a comparable property and notify you of this amount.

**A refinancing payment** for the loss of favorable financing if the mortgage or land contract on the replacement property has a higher rate of interest than the rate on the present mortgage or land contract. To qualify, you must have had a mortgage or land contract on your present property for at least one year before initiation of negotiations.

**An incidental expense payment** for the costs incurred in purchasing the replacement property. Included are attorney fees, commissions, discounts, survey, title evidence, and other closing costs, but not prepaid expenses.

An owner-occupant who rents a replacement may qualify for a rental assistance payment as described below in the "Tenant-Occupants" section. To determine the payment, the agency will establish the economic rent for the acquired property, and subtract this amount from the cost of renting a comparable replacement. The payment is the difference multiplied by 48 months.

## **TENANT-OCCUPANTS**

To be eligible, a person must have owned and occupied a business or farm operation conducted on the real property being affected, and leased or rented such real property, for not less than one year before initiation of negotiations. The person must also rent or purchase a replacement within two years of the date moved.

A tenant-occupant may claim either a rental assistance payment or a downpayment assistance payment:

### **Rental Assistance**

This payment is based on the difference, if any, between the average monthly rent paid for the displacement property during the 12-month period before initiation of negotiations, and the reasonable cost of renting a comparable replacement, or the actual replacement rent, whichever is less, for a period of four years.

### **Downpayment Assistance**

This payment is based on the amount you are entitled to receive as a rental assistance payment, plus the reasonable expenses incurred incidental to the purchase of the replacement (closing costs). The agency may require this payment to be applied toward the purchase price.

## **OUTDOOR ADVERTISING DISPLAYS**

Owners of outdoor advertising displays being displaced are not eligible for a replacement business payment, and generally do not meet the eligibility requirements for a fixed payment-in-lieu or reestablishment expenses. However, they may be eligible for payment of actual and reasonable costs of moving, including:

- Expense to move the sign to a new location;
- Direct loss of tangible personal property;
- Expense in searching for a replacement site.

## **OTHER INFORMATION**

### **Federal Uniform Relocation Act**

In relocation projects receiving federal financial assistance, there may be additional or different payments and services available to you. The agency should advise you if you qualify under any federal relocation provisions.

### **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 with the 1st or 15th day of the month after title vests in an agency, whichever is sooner. Thereafter, rent charged for use of a property prior to the date of displacement may not exceed the economic rent or the rent paid to the former owner, whichever is less.

The agency will not require a person to vacate until a comparable replacement property is made available.

### **Filing a relocation claim**

A relocation claim should be filed as soon as possible after you move and expenses have been incurred. The displacing agency will provide you with claim forms. Generally, claims must be filed within two years after the displacing agency has taken physical possession of the property. Relocation payment should be paid promptly.

### **Appeals**

If you are not satisfied with the relocation payments or assistance offered by the displacing agency, you may file an appeal with the displacing agency. If you can not reach a satisfactory resolution, you may then file an appeal with the Wisconsin Department of Commerce Relocation Unit. If an acceptable solution cannot be negotiated within the 90 days, you may appeal to the circuit court.

### **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.

## **COMMONLY ASKED QUESTIONS**

### **What must I do to receive these payments?**

Relocation assistance can generally be characterized as a "reimbursement program." That means that usually you must have incurred the expense and submitted a claim to the displacing agency in order to receive payment. To receive the business or farm replacement payments,

you must usually purchase (or rent) a code compliant replacement within two years after moving from your present property. The displacing agency can give you more details. To receive your moving expense payment, you should file a claim after the move is completed but no later than two years after the agency takes physical possession of your property.

**Do I have to move to the “comparable” selected by the agency?**

No, you are not required to relocate to the selected comparable replacement. The agency selects a comparable to determine your maximum replacement payment. The agency will provide you written notice of the maximum payment before you move.

**What if I do not buy (or rent) a “comparable” property?**

You are not required to relocate to a property that is comparable to the displacement property. You may still qualify for the amount determined by the agency as “necessary to purchase or rent a comparable,” despite whether your replacement is more or less comparable. However, it must be code compliant (or brought up to such standard) to qualify for payment.

**How far may I move?**

There is no limit to the distance you may move, but the “actual reasonable cost” moving payment is generally limited to a distance of 50 miles.

**FOR MORE INFORMATION:**

Relocation Unit  
Bureau of Planning & Technical Assistance  
Wisconsin Department of Commerce  
P.O. Box 7970  
Madison, WI 53707  
(608) 267-0317

This pamphlet is published by Commerce in cooperation with the Attorney General pursuant to s. 32.26 (6) of Wisconsin Statutes. 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 property for a public project. If there is a conflict between the information in this pamphlet and the Statutes, the Statutes prevail.