

CR 89-50

RULES CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPT. OF INDUSTRY,)
LABOR & HUMAN RELATIONS)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Gerald Whitburn, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Relocation Assistance were duly approved and adopted by this department on September 15, 1989.

(Subject)
(Date)
I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 9:00 a.m. in the city of Madison, this 15th day of September A.D. 1989.

Gerald Whitburn
Secretary

RECEIVED

SEP 15 1989
3:25 p.m.
Revisor of Statutes
Bureau

ANALYSIS OF RULE

Statutory Authority: s. 101.22, 32.26, Stats.

Statutes Interpreted: ss. 32.185 - 32.27, Stats.

These proposed changes amend ILHR 202 which sets forth minimum standards for relocation services and benefits to persons displaced for public improvement projects. The amendments interpret recent statutory changes made by 1987 Wisconsin Act 399. Act 399 was intended to bring Wisconsin's relocation law into conformity with recent federal amendments to the Uniform Relocation Act.

These proposed amendments are based heavily on federal relocation regulations to ensure that public agencies are able to carry out projects in compliance with federal regulations and thereby ensure federal financial aid is not jeopardized.

Following is a summary of key changes proposed:

1. The definition of "acquisition" is modified to cover projects which do not involve direct purchase of real estate. An example is a project where a property owner requires a tenant to move in order to accomplish a publicly assisted rehabilitation project.
2. The definition of "displacing agency" is broadened to cover publicly financed projects undertaken by private entities as well as direct acquisition by an agency vested with eminent domain power.
3. The definition of "displaced person" is modified to cover tenants who are permanently and involuntarily displaced as a result of acquisition by entities not vested with eminent domain power. Also added is a non-exclusive list of situations when a person would not be considered a displaced person.
4. The definition of "initiation of negotiations" is modified to address establishment of an initiation date in non-acquisition projects.
5. The fixed move payment maximum for residences (\$500) has been deleted. Payment will now be based on a revised uniform state moving schedule using the number of rooms of furniture in the displacement dwelling. For example, a person with 6 rooms of furniture or possessions would be entitled to a payment of \$850. under the schedule. This proposed schedule conforms with the schedule applicable in Wisconsin under federal regulations.
6. The fixed move "payment-in-lieu" for businesses and farms is a payment generally designed for smaller business operations that are expected to lose patronage as a result of the move. The payment is based on average business income. Present levels are \$2,500 to \$10,000. New levels are \$1,000 to \$20,000.

7. A definition of "public project" is created. It basically covers all projects which cause displacement from real estate being carried out with public dollars, provided minimum dollar thresholds are reached. Unless otherwise covered under federal law, there must be at least \$5,000 of public funding in projects having a total cost of less than \$50,000 or at least 10% in a project having total costs of more than \$50,000. A non-exclusive list of activities that are not considered to be public projects is also added.

8. A change is made to permit agencies to extend certain timing deadlines for relocation eligibility and claim filing. They can also limit a replacement payment to the amount necessary within a one year period--a provision generally relating to persons who retain long term occupancy of the acquired property.

9. A "small projects" relocation plan alternative is created, offering scaled down planning requirements for projects having less than three displacements.

10. Displacee notice and relocation plan submission requirements for persons or agencies without eminent domain power have been modified to better fit the method of acquisition in such projects.

11. Provisions implementing a new \$10,000 "Reestablishment expenses payment" are created for displaced businesses and farms. This is a new payment under federal and state law, however, state law has had a "replacement business and farm payment" which potentially covers most of the items in this category. Limitations would guard against payment duplication.

12. The method for computing a payment for the increased cost of refinancing a replacement has been changed from an annuity method to a buydown method. The result is expected to produce payments which are generally less and more reflective of the actual loss of favorable financing. The agency is also required to give advance notice of the approximate refinancing payment available.

13. To ensure compliance with federal regulations, without providing a required procedure, the method of computing a replacement rental payment for a displaced residential tenant allows for the payment to be based a person's financial means.

14. An existing "match" requirement for residential and commercial tenants who elect to purchase rather than rent is deleted. Payment would be greatly simplified and based solely on the amount the tenant would have received had the tenant rented a replacement.

SECTION 1. ILHR 202.001 is amended to read:

ILHR 202.001 PURPOSE. The purpose of this ch. ILHR 202 is to implement ss. 32.185 to 32.27, Stats. by establishing minimum standards for providing relocation payments and services to a person who moves from a dwelling, business or farm operation because of acquisition for a public project, purpose, and to assure that such persons do not suffer disproportionate costs as a result of projects designed to benefit the public as a whole. Payments required by this chapter do not affect any right to seek compensation specified in ss. 32.01 through 32.18 and 32.28, Stats. The department of industry, labor and human relations shall assure that displaced persons are treated uniformly, fairly and equitably.

SECTION 2. ILHR 202.002 (1) (b) is amended to read:

ILHR 202.002 (1) (b) A displacement under par. (a) resulting from initiation of negotiations which begins after ~~April 1, 1986~~, April 2, 1989.

SECTION 3. ILHR 202.01 (1) and (13) are amended to read:

ILHR 202.01 DEFINITIONS. In this chapter: (1) "Acquisition" means: (a) a A property ~~acquired~~ purchased by an agency by any legal means including a negotiated sale and exercise of eminent domain.; or,

(b) A tenant-occupied unit where possession or use is denied to the occupant under a rehabilitation, code enforcement or other program or project being carried out with public financial assistance.

(13) "Displacing agency" means a condemnor, state agency, political subdivision of the state, developer or any other person carrying out a public project that causes a person to be a displaced person. a An agency vested with eminent domain power under Ch 32, Stats., for the project, acquiring real property in whole or in part for a public project, is a displacing agency, regardless of whether or not any or all of the statutory or procedural steps necessary to exercise such power have been taken, which acquires a property, or whether the acquisition of property, in whole or in part, either is acquired by negotiated purchase or by eminent domain. In a project being carried out by a person or entity without eminent domain power, the condemnor, state agency or political subdivision of the state that is the principal public funding source for the project, shall ensure compliance with the provisions of ch. ILHR 202.

~~NOTE: The department may review indirect acquisition carried out through another entity not vested with eminent domain power, as well as direct acquisition by an agency under par. (a), in determining whether a project has a substantial level of public involvement so as to require that relocation assistance be provided under this chapter.~~

SECTION 4. ILHR 202.01 (14) is repealed and recreated to read:

ILHR 202.01 (14) (a) "Displaced person" means any person who moves from real property or moves personal property from real property:

1. As a direct result of a written notice of intent to deny possession or use of rented property or to purchase real property, the initiation of negotiations for, or the purchase of, such real property by a displacing agency, in whole or in part, for a public project. A person is also considered to have moved because of the purchase when the person occupies a property at the time of initiation of negotiations, but moves before acquisition, if the property is subsequently acquired;

2. As a result of denial of possession or use by the owner in anticipation of acquisition by an agency, if the removal is unrelated to a material breach of a rental agreement by the tenant. A substantial and unwarranted rent increase before acquisition by an agency shall be considered denial or use by the owner; or

3. As a result of property rehabilitation, conversion, demolition, or other related displacing activity, provided the person is:

a. A tenant occupant who will be permanently displaced and has not been offered a reasonable opportunity to occupy a suitable, decent, safe and sanitary dwelling in the same or a nearby building with actual reasonable moving cost of the move being paid by the displacing agency; or

b. A tenant occupant in a federally assisted project who is unable to continue occupancy in the displacement dwelling under terms and conditions that are reasonable as specified by the federal funding agency.

(b) "Displaced person" does not include, among others:

1. A person who moves before initiation of negotiations, unless the agency determines the person was displaced by the project;

2. A person who initially occupies the affected property after the date of its acquisition by an agency;

3. A person who has occupied the property for the express purpose of obtaining relocation benefits under this chapter;

4. A tenant-occupant of a dwelling who has been promptly notified that he or she will not be displaced by the project, provided that, if a temporary move is necessary, the temporary replacement dwelling is decent, safe and sanitary and the tenant is compensated for actual out-of-pocket expenses incurred in connection with a temporary move, including moving costs to and from the temporary dwelling, any increased rent or utility costs, and other reasonable expenses incurred;

5. A person who, after receiving a notice of relocation eligibility, is subsequently notified in writing that the person will not be displaced for the project. Such notice shall not be issued unless the person has not moved, the agency provides compensation for any expenses incurred up to the time the no displacement notice is issued and the agency withdraws any attempt to acquire the property or carry out the project affecting the property;

6. An owner-occupant who voluntarily sells a property after being informed in writing that the agency will not acquire the property by condemnation if a mutually satisfactory agreement of sale is not obtainable. In such cases, however, any tenants who occupy the property are displaced persons under this chapter:

Note: The agency may be required to obtain a waiver of relocation assistance under s. ILHR 202.12.

7. An owner-occupant who voluntarily sells a property to a displacing agency not vested with eminent domain power;

8. A person who voluntarily retains the right of use and occupancy of the real property for life following its acquisition by the agency;

9. A person who is determined to be in unlawful occupancy of the property or has been evicted for cause under applicable law before initiation of negotiations for the property. Unlawful occupancy is defined under s. ILHR 202.01(42)

10. A person who is a non-occupant owner of commercial or residential property that is rented to others, except that such owner may qualify for actual and reasonable moving expenses under s. ILHR 202.52.

SECTION 5. ILHR 202.01 (20)(intro), (21) and (24) are amended to read:

ILHR 202.01 (20) "Financial means" means the standard for determining if a dwelling is affordable. A replacement or comparable dwelling is within a person's financial means when, as an owner, the monthly housing costs, including payments for mortgage, insurance, utilities and property taxes, or, as a tenant, monthly rent including comparable utility costs, minus any replacement housing payment available to a person under this chapter, does not exceed ~~55%~~ 30% of average monthly income. In lieu of the ~~35%~~ 30% of income standard in this subsection, a comparable dwelling may also be considered to be within a person's financial means if:

(21) "Initiation of negotiations" means:

(a) In acquisition projects, the date a displacing agency, or its representative, initially contacts an owner of real property, or the owner's representative and makes a written monetary offer to purchase the property, or

(b) In rehabilitation, code enforcement or related non-acquisition projects, the date a displacing agency makes its initial funding or other commitment to the project which may cause the displacement of an occupant, or the date a person receives actual or constructive notice that the person will be displaced, whichever is earlier, unless a different action or date is specified in applicable federal program regulations.

Note: Initiation of negotiations does not generally include a situation where the agency obtains only a first right of refusal to acquire that does not also include a monetary offer or establishment of a purchase price and where the agency is not otherwise committed to the acquisition of the property.

(24) "Moving expense-fixed payment" means an alternate payment for moving. A payment for an occupant of a dwelling is based on a room schedule plus a dislocation allowance, ~~with a combined payment up to \$500.~~ A fixed payment for a business or farm operation is based on average annual net earnings and may not be less than ~~\$2,500~~ \$1,000 nor more than ~~\$10,000~~ \$20,000.

SECTION 6. ILHR 202.01 (33) is created to read:

202.01 (33) (a) "Public project" means, in addition to a project being carried out directly by a public entity, an activity or program directly receiving, or expected to directly receive, public financial assistance including a grant, loan or contribution. Unless otherwise covered under federal relocation regulations, such assistance must be at least \$5,000 in a project having total costs of less than \$50,000 or at least 10% in a project having total costs of \$50,000 or more, and involve one or more of the following activities:

1. Real property acquisition;
2. Housing or commercial rehabilitation or conversion;
3. Demolition within a designated redevelopment or blight removal area established by formal local government action on or after April 2, 1989; or
4. Another related public construction or improvement project receiving federal financial assistance covered under federal relocation regulations.

(b) "Public project" does not include, among others:

1. Any public guarantee or insurance;
2. Any interest reduction payment or loan to an individual in connection with the purchase and occupancy of a property by the individual.
3. Acquisition of property under tax foreclosure proceedings, provided a tenant-occupant is not displaced for a public project related to the acquisition;
4. Direct acquisition by a federal agency carrying out a federal program or project;
5. Demolition activity accomplished on a random basis if there is no planned public project for the property affected; or
6. A private project which is able to proceed as a result of governmental zoning changes, variances or related actions.

SECTION 7. ILHR 202.01 (33) through (38) are renumbered (34) through (39)

SECTION 8. ILHR 202.01 (39) is renumbered (40) and amended to read:

(40) "Tenant-occupant, residential", means a person who is the tenant of a ~~property being acquired~~ displacement dwelling and occupies ~~the dwelling on the property~~ as a primary residence.

SECTION 9. ILHR 202.01 (40) is renumbered (41) and amended to read:

(41) "Tenant-occupied business", means, for the purposes of Subch. VI, a person who is a tenant-owner and operator of a business or farm operation which was conducted on the property for at least one year before initiation of negotiations to purchase the property, or the date of vacation when given a notice of intent to acquire displacement from the agency, whichever is earlier.

SECTION 10. ILHR 202.01 (42) is created to read:

ILHR 202.01 (42) "Unlawful occupancy" means occupancy by a person who has been ordered to move by a court of competent jurisdiction prior to initiation of negotiations for the acquisition of the property. At the discretion of the agency, persons who occupy property without permission of the owner may be considered to be in unlawful occupancy. Technical violations of law and unlitigated violations of the terms of a lease, such as having an unauthorized pet or withholding rent because of improper building maintenance, do not constitute unlawful occupancy.

SECTION 11. ILHR 202.01 (41) is renumbered 202.01 (43).

SECTION 12. ILHR 202.06 (2) (intro) and (3) (intro) are amended to read:

ILHR 202.06 (2) WRITTEN INFORMATION AT INITIAL CONTACT. An agency, except an agency without eminent domain power undertaking a project where such power does not exist, shall provide written notice at the time of initial contact to obtain information necessary for preparation of a relocation plan:

(3) INFORMATION BEFORE INITIATION OF NEGOTIATIONS. An agency, except an agency without eminent domain power undertaking a project where such power does not exist, shall, before initiation of negotiations, furnish the following pamphlets unless already furnished with the written notice at the time of initial contact as specified under sub. (2).

SECTION 13. ILHR 202.06 (4) through (8) are renumbered (5) through (9).

SECTION 14. ILHR 202.06 (4) is created to read:

ILHR 202.06(4) INFORMATION FROM AGENCIES WITHOUT EMINENT DOMAIN POWER. An agency without the power of eminent domain undertaking a project where such power does not exist, shall provide the following notices and information:

(a) A written notice cautioning the owner against removal of tenants shall be provided to the owner before initiation of negotiations.

(b) A relocation informational pamphlet under sub. (3) (b) or (c) shall be provided to a tenant occupant who will be displaced as soon as feasible and no later than 7 days after an offer to purchase has been accepted and all contingencies removed, except for a relocation plan approval contingency.

SECTION 15. ILHR 202.08 (1) and (3) are amended to read:

ILHR 202.08 (1) TIME OF FILING. A displaced person may file a claim for payment following a move, but not later than 2 years after the following dates, unless extended by the agency for good cause: an agency acquires the property. ~~An agency may not require a person to relinquish a right to future claims as a condition of payment.~~

(a) For tenants, the date of displacement;

(b) For owners, the date of final payment for the purchase of the real property or the date of displacement, whichever is later.

(3) DIRECT PAYMENT. An agency may not withhold part of a payment to a displaced person to satisfy an obligation to an agency or creditor, except that an agency may deduct any rent the displaced person owes the agency if the deduction does not prevent the person from obtaining a comparable replacement dwelling. ~~An agency may not require a person to relinquish a right to future claims as a condition of payment.~~ A payment shall be made to a displaced person, unless a person designates otherwise in writing, or a court orders a set off under s. 32.20, Stats.

SUBCHAPTER II--RELOCATION PLAN

SECTION 16. ILHR 202.26 (intro) is amended to read:

ILHR 202.26 TIME OF PLAN SUBMISSION. (1) AGENCY WITH EMINENT DOMAIN POWER. An agency vested with eminent domain power, or undertaking a project where such power exists, shall file a relocation plan and receive approval in writing from the department before proceeding with any vacant or occupied property acquisition, initiation of negotiations on any project which may involve displacement of a person.

~~NOTE: Property acquisition includes, but is not limited to, an option to purchase or initiation of negotiations to acquire property by an oral or written offer to purchase. An agency may have a property appraised before plan approval.~~

SECTION 17. ILHR 202.26 (2)(intro), (a) and (b) are created to read:

ILHR 202.26 (2) AGENCY WITHOUT EMINENT DOMAIN POWER. An agency undertaking a project where the power of eminent domain does not exist, shall submit and receive approval of a relocation plan from the department, before a property is acquired for the project, provided:

(a) Any option taken or offer to purchase made by the agency is conditioned upon receipt of relocation plan approval from the department before a property is acquired, and

(b) Tenants who occupy a property and who may be required to move, are contacted by the agency within 7 days after all contingencies have been removed from an option or an accepted offer to purchase. Such contact shall be for the purpose of informing a tenant of any relocation payments and services available and to obtain information for the purpose of preparing a relocation plan.

Note: The purpose of this alternative method of submitting a relocation plan is to ensure that agencies without the power of eminent domain, who are unable to adequately plan for relocation before the project has sufficiently developed to the implementation stage, comply with relocation planning requirements as soon as feasible and before an agency is legally or financially committed to the acquisition of a property where displacement may occur.

SECTION 18. ILHR 202.28 (intro) and (1) are amended to read:

ILHR 202.28 CONTENTS OF RELOCATION PLAN. ~~An agency shall file a relocation plan with the department. The~~ A relocation plan shall include the following elements in sufficient detail to assess whether relocation can be satisfactory accomplished:

(1) PROJECT DESCRIPTION. The name, purpose, location, overall project activity, administrative organization and staffing for relocation assistance, type and occupancy status of displacement property ~~to be acquired~~, and a timetable for project implementation;

SECTION 19. ILHR 202.29 is created to read:

ILHR 202.29 SMALL PROJECTS RELOCATION PLAN. A small projects relocation plan for projects having less than three displacements may be submitted in lieu of a complete relocation plan, and shall consist of items specified in s. 202.28 (1), (4) and (10). A small projects relocation plan shall be submitted in a format approved by the department.

SUBCHAPTER IV - RELOCATION MOVING PAYMENTS

SECTION 20. ILHR 202.50 (1) is amended to read:

ILHR 202.50(1) Moving a person and personal property from ~~an acquired a~~ displacement property;

SECTION 21. ILHR 202.52 (1) (g) and (2) (b) are amended to read:

ILHR 202.52 (1) (g) The replacement value of property lost, stolen or damaged in moving, not caused by the fault or negligence of a displaced person, agent, or employe, provided if insurance coverage was not reasonably available;

(2) (b) Additional expense of residing or operating a business or farm operation in a new location, except as provided under s. ILHR 202.67

SECTION 22. ILHR 202.54 (intro) is amended to read:

ILHR 202.54 MOVING PAYMENT--RESIDENTIAL. An agency shall pay a person displaced from a dwelling for the cost of moving the person and personal property as specified under s. ILHR 202.52. A person who moves from a primary or seasonal dwelling may claim a payment based on ~~a~~ the fixed payment schedule under sub.(2).

SECTION 23. ILHR 202.54 (1) (e) is amended to read:

ILHR 202.54 (1) (e) Cost of moving a mobile home. An agency shall pay an owner of a mobile home for the actual and reasonable cost to move the mobile home and other personal property, including detaching and reattaching fixtures, utilities and appliances. An ~~owner-occupant~~ of a mobile home may elect ~~the mobile home fixed payment schedule.~~ ~~A tenant or an owner-occupant who does not move the mobile home may~~ to claim under the fixed payment schedule for a conventional dwelling as specified under in sub.(2).

SECTION 24. ILHR 202.54 (2) (intro) is renumbered 202.54 (2) and amended to read:

ILHR 202.54 (2) FIXED PAYMENT SCHEDULE. An agency shall, in lieu of payment under sub.(1), pay a person a moving expense and dislocation allowance payment based on the following schedule ~~an agency schedule.~~ ~~The schedule maximum shall be \$300, plus a dislocation allowance of \$200.~~ of furnished or unfurnished rooms in a dwelling or seasonal residence, except that one or more additional rooms shall be added for property stored in a basement, attic, garage or outbuilding. The actual moving cost may not be considered in computing a fixed payment, nor is it required that a person document actual cost when claiming a fixed payment.

SECTION 25. ILHR 202.54 (2) (a) through (d) are repealed.

SECTION 26. TABLE 202.54 is created to read:

Number of Rooms of Furniture	If Occupant Has Furniture	If Occupant Does Not Have Furniture
1	250	225
2	400	260
3	550	295
4	650	330
5	750	365
6	850	400
7	950	435
8	1,050	470
Each Additional Room	100	35

SECTION 27. ILHR 202.54 (3) (a) and (b) are amended to read:

ILHR 202.54 (3) (a) Two or more families, or a family and an unrelated individual, who move to separate dwellings, shall each be reimbursed either on ~~a~~ an actual cost basis or on ~~a~~ the fixed payment schedule. A fixed payment for each shall be ~~prorated~~ based on the number of rooms occupied by each, plus rooms shared.

(b) Two or more individuals ~~who move to separate dwellings~~ shall be treated as one person for moving cost purposes. There shall be one prorated actual move cost payment based on the actual cost of each person. Two or more individuals who claim ~~using a~~ under the fixed payment schedule, shall receive one payment based on the total number of rooms occupied, plus one dislocation allowance, both to be prorated among the individuals. Payment shall be prorated equally among the individuals unless they specify differently.

SECTION 28. ILHR 202.54 (3) (c) is repealed.

SECTION 29. ILHR 202.56 (1) (b) 1., (4)(intro), (4) (a) 1. and (4) (b) are amended to read:

ILHR 202.56 (1) (b) Self-move. 1. ~~An agency shall assist a person to prepare a detailed inventory of the items to be moved.~~ A person shall have the option of taking responsibility for all or a part of the move and being paid an amount equal to the low bid when an agency is able to obtain 2 bids from qualified commercial movers, lower of two acceptable bids or estimates obtained by the agency or prepared by qualified staff. An agency shall also pay a person for expenses specified under s. ILHR 202.52 when not included in a bid or estimate.

(4) (intro) PAYMENT IN LIEU OF ACTUAL AND REASONABLE MOVING EXPENSE. An agency shall pay a person who discontinues or relocates a business, at a person's option, a fixed payment and in lieu of actual moving and related expense, and reestablishment expenses under s. ILHR 202.67. ~~an amount~~ The fixed payment shall be equal to the average annual net earnings of the business, but not less than \$2,500 \$1,000, nor more than \$10,000 \$20,000, provided if the following requirements are met:

(4) (a) 1. The type of business and nature of the clientele may require a location near the acquired displaced property and a suitable replacement site may not be available;

(4) (b) ~~One business.~~ Number of businesses. The business is not part of a commercial enterprise ~~with at least one~~ having more than three other establishments not being acquired displaced and engaged in the same or similar business under the same ownership.

SECTION 30. ILHR 202.56 (4) (c) is renumbered 202.56 (4) (d)

SECTION 31. ILHR 202.56 (4) (c) is created to read:

ILHR 202.56 (4) (c) Rental business. The business is not operated at the displacement dwelling or site solely for the purpose of renting to others.

SECTION 32. ILHR 202.56 (4) (d) is renumbered 202.56 (4) (e).

SECTION 33. ILHR 202.56 (4) (e) is renumbered 202.56 (4) (f) and amended to read:

ILHR 202.56 (4) (f) Owner verification of income. A business owner shall verify net earnings ~~to be eligible for if claiming~~ a payment in excess of ~~\$2,500~~ \$1,000. Income tax records shall be acceptable evidence of earnings.

SECTION 34.. ILHR 202.60 (2) (intro), (2) (b) 2. and (2) (e) are amended to read:

ILHR 202.60 (2) (intro) PAYMENT IN LIEU OF ACTUAL AND REASONABLE MOVING EXPENSE. An agency shall pay a person who discontinues or relocates a farm operation, at the person's option, a fixed payment and in lieu of actual moving and related expense and reestablishment expenses under s. ILHR 202.67. an amount ~~The fixed payment shall be equal to the average annual net earnings of the farm operation, but not less than \$2,500~~ \$1,000, nor more than ~~\$10,000~~ \$20,000, ~~provided if the following requirements are met:~~

(2) (b) 2. The acquisition caused displacement of a person from a farm operation on the remaining land: or

(2) (e) Owner verification of income. The farm operator shall verify net earnings ~~to be eligible for if claiming~~ a payment in excess of ~~\$2,500~~ \$1,000. Income tax records shall be acceptable evidence of earnings.

SECTION 35. ILHR 202.62 (2) is amended to read:

ILHR 202.62 (2) PAYMENT IN LIEU OF ACTUAL MOVING EXPENSE. An agency shall pay a discontinued or relocated nonprofit organization at the organization's option, ~~and a fixed payment~~ in lieu of actual moving and related expense and reestablishment expenses under s. ILHR 202.67. an amount of \$2,500. ~~The fixed payment shall be equal to the average annual difference between gross revenues and administrative expenses for the 2 year period before displacement, but not less than \$1,000, nor more than \$20,000, provided if the organization meets the requirements as specified under s. ILHR 202.56(4)(a) and (b).~~ is unable to relocate without a substantial loss of existing membership or clientele. A nonprofit organization is assumed to meet this test unless the agency demonstrates otherwise.

SECTION 36. ILHR 202.64 (5) is created to read:

ILHR 202.64 (5) PAYMENT IN LIEU OF ACTUAL AND REASONABLE MOVING COSTS. At the person's option, an agency shall pay a person who discontinues or relocates an outdoor advertising sign, a fixed payment in lieu of actual moving and related expenses and reestablishment expenses under s. ILHR 202.67. The fixed payment shall be equal to the average annual net earnings of the sign, but not less than \$1,000 nor more than \$20,000, if the person meets the loss of patronage requirement under s. ILHR 202.56 (4) (a).

SECTION 37. ILHR 202.67 is created to read:

ILHR 202.67 REESTABLISHMENT EXPENSES--NON RESIDENTIAL MOVES. (1) **GENERAL** In addition to the payments available under s. 202.56 (1), (2), and (3), a business, farm or nonprofit organization may be eligible to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing at a replacement site.

(2) **ELIGIBLE EXPENSES.** Reestablishment expenses may include, but are not limited to the following reasonable and necessary costs, as determined by the displacing agency:

(a) Repairs or improvements to the replacement real property as required by applicable federal, state or local codes or ordinances.

(b) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

(c) Construction and installation costs for exterior signing to advertise the business, not to exceed \$1,500.

(d) Provision of utilities from the right-of-way to improvements on the replacement site.

(e) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, panelling, or carpeting.

(f) Licenses, fees and permits when not paid as part of moving expenses.

(g) Feasibility surveys, soil testing and marketing studies.

(h) Advertisement of the replacement location, not to exceed \$1,500.

(i) Professional services in connection with the purchase or lease of a replacement site.

(j) Increased costs of operation during the first two years at the replacement site for lease or rental charges, personal or real property taxes, insurance premiums, or utility charges, not to exceed \$5,000.

(k) Impact fees or one-time assessments for anticipated heavy utility usage.

(l) Other items that the agency considers essential for reestablishment of the business.

(3) **INELIGIBLE EXPENSES.** Reestablishment expenditures that are not considered to be reasonable and necessary relocation costs include the following nonexclusive list:

(a) Purchase of capital assets, such as office furniture, filing cabinets, machinery or trade fixtures

(b) Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of business operations.

(c) Interior or exterior renovations at the replacement site which are for aesthetic purposes, except as provided in sub. (1) (e).

(d) Interest on money borrowed to make the move or purchase the replacement property.

(e) Payment to a part-time business in the home which does not contribute materially to the household income.

(f) Payment to a person whose sole business at a displacement site is the rental of the site to others, unless such business has at least one employee on site and is otherwise eligible for reestablishment expenses under applicable federal program regulations.

(4) LIMITATIONS. A person shall be eligible for reasonable and necessary reestablishment expenses, as determined by the agency, if such expenses are not otherwise paid as part of a replacement business or farm payment under s. ILHR 202.90. A person who is eligible to receive a replacement business or farm payment of at least \$10,000 under s. ILHR 202.90 is not eligible for reestablishment expenses under this section, except for items in sub. (1) (c), (d), (f), (h), (k) and (l).

SUBCHAPTER V REPLACEMENT HOUSING PAYMENT

SECTION 38. ILHR 202.68 (1) is renumbered (1) (a) and amended to read:

ILHR 202.68 (1) ELIGIBILITY REQUIREMENTS. (a) Persons who meet length of occupancy requirements. An owner or tenant occupant displaced from a dwelling shall be eligible for a replacement housing payment under this subchapter, ~~provided~~ if the person occupied the dwelling 180 days before initiation of negotiations if an owner, or 90 days if a tenant, except that a 90-day owner may qualify for a tenant replacement payment.

SECTION 39. ILHR 202.68 (1) (b) is created to read:

ILHR 202.68 (1) (b) Persons who do not meet length of occupancy requirements. A person who occupies real property before its acquisition, but does not meet the length of occupancy requirements in par. (a), may receive a payment equal to the difference between 30% of the person's average monthly income and the monthly housing costs of a replacement dwelling, for a period of 48 months, if a replacement rental is not otherwise available within 30% of the person's average monthly income.

SECTION 40. ILHR 202.68 (3) is amended to read:

ILHR 202.68 (3) PRIOR OWNERSHIP OF REPLACEMENT DWELLING OR LAND. An agency shall make a replacement payment to a person based on a dwelling or site owned by the person before acquisition, provided if the person occupies the replacement within the time limit as specified under s. ILHR 202.70 (1) (b), and the dwelling is decent, safe and sanitary. The cost fair market value of the land and the dwelling at the time of purchase by a displaced person at the time of displacement shall be used as the actual cost in determining the payment.

SECTION 41. ILHR 202.68 (9) (b) 8. and (9) (c) are created to read:

ILHR 202.68 (9) (b) 8. Change in occupancy status of the displaced person from tenant to homeowner when it is more cost effective to do so.

(9) (c) An agency may limit payment to the amount necessary to relocate to a comparable replacement within one year from the date the person is paid for the displacement dwelling, or one year from the date the person is initially offered a comparable replacement dwelling and advised of replacement payment entitlements, whichever is later.

SECTION 42. ILHR 202.70 (1) (b) and (5) (a) and (b) are amended to read:

ILHR 202.70 (1) (b) Purchases and occupies a decent, safe and sanitary replacement dwelling within one year from the date the owner received final payment for the acquired property, ~~or~~ the date the owner vacates the acquired property, or an extended date established by the agency for good cause, whichever is later. For the purpose of this section a replacement dwelling is purchased when a person:

(5) INCREASED INTEREST PAYMENT. (a) General. An agency shall pay a displaced person for the present worth of increased interest expense and other debt service costs incurred in financing the purchase of a comparable replacement dwelling, provided if:

3. All bona fide mortgages or land contracts that were valid liens on the displacement dwelling for at least 180 days before initiation of negotiations on the acquired dwelling shall be used to compute the increased interest payment.

(b) Payment computation. The increased interest payment ~~may not exceed the unpaid balance of the old or new mortgage or land contract,~~ and shall be computed as follows:

1. The interest payment shall be computed and based on the term of the new mortgage or the remaining term of the old mortgage at the time of acquisition, whichever is less; and the lesser amount of the new mortgage or the old mortgage, reduced to discounted present value, an amount which will reduce the mortgage balance on the replacement dwelling to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage or mortgages on the displacement dwelling, except that the payment for a person obtaining a mortgage that is less than the mortgage balance computed in the buydown determination, shall be prorated and reduced accordingly. In the case of a home equity loan, the unpaid balance shall be that balance which existed 180 days before the initiation of negotiations or the balance on the date of acquisition, whichever is less.

2. The amount paid by a person as points, ~~and as loan origination or assumption service fees,~~ but not seller's points, shall be based on the amount refinanced, not exceeding the amount which would have been paid had the original mortgage been refinanced, and shall be added to the amount as specified under subd 1. The origination or ~~service~~ assumption fee shall be limited to the fee normal for real estate transactions in the area.

SECTION 43. ILHR 202.70 (5) (d) is repealed and recreated to read:

ILHR 202.70 (5) (d) Mortgage term. The payment shall be based on the remaining term of the mortgage or mortgages on the displacement dwelling regardless of the term on the new mortgage.

SECTION 44. ILHR 202.70 (5) (f) is created to read:

ILHR 202.70 (5) (f) Prompt payment. An agency shall advise a displaced person of the approximate amount of a refinancing payment as soon as the facts relative to a person's current mortgages are known. If requested by the displaced person, the refinancing payment shall be made available at or near the time of closing on the replacement to permit reduction of the new mortgage amount.

SECTION 45. ILHR 202.70 (6) (b) is amended to read:

ILHR 202.70 (6) (b) Lender, appraisal and or application fees, and loan origination or assumption fees that do not represent prepaid interest;

SECTION 46. ILHR 202.72 (2) is amended to read:

ILHR 202.72 (2) COMPUTATION OF PAYMENT. The payment shall be computed as specified under s. ILHR 202.78, except the economic rent of the acquired dwelling shall be used to compute the payment, ~~and the payment may not exceed what a person would have received to purchase a replacement as specified under s. ILHR 202.70.~~

SECTION 47. ILHR 202.74 (1) and (2) are amended to read:

ILHR 202.74 90-DAY OWNER OR TENANT WHO PURCHASES. (1) GENERAL. An agency shall pay a person who has occupied a dwelling for not less than 90 days before initiation of negotiations, an amount up to \$8,000 for a downpayment on the purchase of a replacement dwelling and reimbursement for expenses incidental to purchase.

(2) COMPUTATION OF DOWN PAYMENT AND INCIDENTAL COST. (a) An agency shall pay a person a downpayment assistance payment equal to a rental assistance payment computed as specified under s. ILHR 202.78, ~~provided the rental assistance payment is \$4,000 or more;~~

SECTION 48. ILHR 202.74 (2) (b) is repealed.

SECTION 49. ILHR 202.74 (2) (c) is renumbered (2) (b) and amended to read:

ILHR 202.74 (2) (b) An amount required to be paid by a person for incidental cost as specified under s. ILHR 202.70(6), shall be added to the amount as specified under para. (a) ~~or (b).~~

SECTION 50. ILHR 202.74 (2) (d) is renumbered (2) (c) and amended to read:

ILHR 202.74 (2) (c) An agency shall pay a person who purchases and occupies a decent, safe and sanitary dwelling within one year after the date the person moves from the dwelling, or the date the person receives payment for the acquired property, whichever is later. The agency may extend this period for good cause.

SECTION 51. ILHR 202.74 (3) is amended to read:

ILHR 202.74 (3) LIMITATIONS. ~~A person shall receive the full amount of the downpayment except that payment in excess of \$2,000 shall require that the person equally match each dollar paid by the agency over \$2,000 to the maximum as specified under sub (2).~~ (a) An agency may require that the full amount of the downpayment assistance payment be applied to the purchase price of the replacement dwelling or related incidental expenses, except that An an agency may pay the downpayment assistance directly to a displaced person upon reasonable assurance that the displaced person will apply the match amount toward the downpayment, or may require that the full amount of the payment be applied toward the purchase price of the replacement and related incidental expenses payment toward replacement housing costs.

(b) A downpayment assistance payment to a 90-day owner may not exceed the amount the owner would have received if eligible under the 180-day occupancy provisions.

(c) An owner eligible for a payment as a 180-day owner under s. 202.70 is ineligible for a downpayment assistance payment under this section.

SECTION 52. ILHR 202.78 (intro), (1) (a) and (b), (2) and (4) are amended to read:

ILHR 202.78 90-DAY TENANT WHO RENTS. An agency shall pay a person who has occupied an acquired a displacement dwelling for not less than 90 days before initiation of negotiations, for the increased cost to rent a comparable dwelling as specified under this section. A rental assistance payment shall not exceed \$8,000 unless a person is eligible for a greater payment under s. ILHR 202.68(9).

(1) (a) Occupies a dwelling for not less than 90 days immediately before the date of initiation of negotiations for ~~the acquisition of~~ a property which is subsequently acquired or affected by displacement and;

(b) Rents and occupies a decent, safe and sanitary replacement dwelling within one year of the date of vacation. The agency may extend this period for good cause.

(2) RENT DIFFERENTIAL PAYMENT. An agency shall pay a person who rents a replacement dwelling, a payment equal to the difference for 48 months, if any, between the monthly rent for the acquired displacement unit and the lesser of the monthly rent for a comparable dwelling or the actual replacement rent.

(4) PAYMENT CALCULATION. To compute a payment, An an agency shall determine the base monthly rent, the rent of a comparable dwelling and the rent paid for the replacement dwelling to compute a payment as follows:

SECTION 53. ILHR 202.78 (4) (a) 3. is created to read:

ILHR 202.78 (4) (a) 3. The agency may establish the base monthly rent by using a person's financial means as specified under s. ILHR 202.01 (20) in lieu of the rent specified in subd. 1 or 2. If the person refuses to provide appropriate evidence of income or is a dependent, the base monthly rent shall be established as specified in subd. 1 or 2. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.

SECTION 54. ILHR 202.80 (intro) is amended to read:

ILHR 202.80 90-DAY TENANT WHO PURCHASES. (1) GENERAL. An agency shall pay a tenant occupant of a dwelling who purchases a replacement and who is eligible under s. ILHR 202.78(1)(a), a payment not to exceed \$8,000 for a downpayment on the purchase of a comparable replacement dwelling including plus incidental expenses under s. 202.70 (6).

SUBCHAPTER VI REPLACEMENT BUSINESS AND FARM PAYMENT

SECTION 55. ILHR 202.90 (1) (a) and (b), (3) and (7) (d) are amended to read:

202.90 (1) (a) The property is subsequently acquired, a tenant is affected by displacement, or a notice to vacate is issued;

(b) The person owns and occupies a business or farm conducted on the real property acquired or affected by displacement, for not less than one year before initiation of negotiations.

(3) PRIOR OWNERSHIP OF A REPLACEMENT BUILDING OR LAND. An agency shall pay a person who is an owner of a replacement building or land upon which a replacement building is constructed and within the time limit under sub. (1), a replacement payment as specified under this subchapter. The ~~cost~~ fair market value of the land and the building at the time of ~~purchase~~ displacement shall be used as the actual cost in determining the payment.

(7) (d) Mixed residential and nonresidential use property. An agency shall determine a replacement payment by using only that portion of the acquired or displacement property occupied by the displaced business or farm.

SECTION 56. ILHR 202.92 (4) (a) and (b) are amended to read:

ILHR 202.92 (4) INCREASED INTEREST PAYMENT. (a) General. An agency shall pay a displaced person for the ~~present worth of~~ increased interest expense and other debt service costs incurred in financing the purchase of a replacement business or farm operation, provided:

3. All bonafide mortgages or land contracts that were valid liens on the displacement property for at least one year before initiation of negotiations on the acquired property shall be used to compute the increased interest payment.

(b) Payment computation. The increased interest payment ~~may not exceed the unpaid balance of the old or new mortgage or land contract,~~ and shall be computed as follows:

1. The interest payment difference shall be ~~computed based on the term of the new mortgage or the remaining term of the old mortgage at the time of acquisition, whichever is less; and the lesser of the new mortgage or the old mortgage, reduced to discounted present value.~~ an amount which will reduce the mortgage balance on the replacement property to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage or mortgages on the displacement property, except that the payment for a person obtaining a mortgage that is less than the mortgage balance computed in the buydown determination, shall be prorated and reduced accordingly.

2. The amount paid by a person as points, ~~and~~ loan origination or assumption service fees, but not seller's points, shall be based on the amount refinanced, not exceeding the amount which would have been paid had the original mortgage balance been refinanced, and shall be added to an amount as specified under subd 1. The origination or ~~service~~ assumption fee shall be limited to the fee normal for real estate transactions in the area.

SECTION 57. ILHR 202.92 (4) (d) is repealed and recreated to read:

ILHR 202.92 (4) (d) Mortgage term. The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling regardless of the term on the new mortgage.

SECTION 58. ILHR 202.92 (4) (f) is created to read:

ILHR 202.92 (4) (f) Prompt payment. An agency shall advise a displaced person of the approximate amount of a refinancing payment as soon as the facts relative to a person's mortgages are known. If requested by the displaced person, the refinancing payment shall be made available at or near the time of closing on the replacement to permit reduction of the new mortgage amount.

SECTION 59. ILHR 202.92 (5) (b) is amended to read:

ILHR 202.92 (5) (b). Lender, appraisal and or application fees, and loan origination or assumption fees that do not represent prepaid interest;

SECTION 60. ILHR 202.96 (1), (3) and (4) are amended to read:

ILHR 202.96 (1) RENT DIFFERENTIAL PAYMENT. An agency shall pay a person who rents a replacement business or farm operation, a payment equal to the difference for 48 months, if any, between the monthly rent for the ~~acquired displacement~~ unit and the lesser of the monthly rent for a comparable business or farm operation, or the actual replacement.

(3) PAYMENT COMPUTATION. To compute a payment, An an agency shall determine the base monthly rent, the rent of a comparable replacement, and the rent paid for the replacement property, to compute a payment as follows:

(4) COMPARABILITY OF RENT FACTORS. Rent factors such as utilities, furnishings, parking and others, shall be the same for the acquired displacement property and the comparable or replacement property. However, rent factors in the comparable property which must be paid by the displaced person shall be included in the payment regardless of whether they existed in the acquired displacement property.

SECTION 61. ILHR 202.98 (1) and (2) (a) through (d) are amended to read:

ILHR 202.98 TENANT-OCCUPANT WHO PURCHASES. (1) GENERAL. An agency shall pay a person otherwise eligible under s. ILHR 202.96, an amount up to ~~\$20,000~~ \$30,000 for a downpayment on the purchase of a replacement, and reimbursement for actual expenses incidental to the purchase. The payment may not exceed the amount necessary to rent a comparable replacement as specified under s. ILHR 202.96.

(2) COMPUTATION OF DOWNPAYMENT AND INCIDENTAL COST. (a) The agency shall pay a person the lesser of the amount the person is entitled to receive for a rental replacement payment as specified under s. ILHR 202.96. necessary for a downpayment to finance a conventional loan on a comparable property, or that required as a downpayment to finance a conventional loan on the actual replacement property. A comparable shall be selected using the selection procedures as specified under s. ILHR 202.92(2) and (3).

(b) An agency shall pay the amount calculated under s. ILHR 202.96 to a tenant-occupant who purchases a replacement business or farm operation within 2 years after the person moves from the displacement property. ~~a downpayment computed as specified under this section. The agency shall pay the first \$10,000 of the required downpayment. The agency shall also match each dollar a displaced person applies toward the purchase, up to an additional \$10,000, when the required downpayment exceeds \$10,000.~~

(c) The incidental cost as specified under s. ILHR 202.92(5) shall be added to the amount as specified under par. ~~(b)~~ (a).

(d) An agency may require that the full amount of pay the downpayment assistance payment be applied to the purchase price of the replacement property and related incidental expenses. An agency may pay the amount directly to a displaced person upon reasonable assurance that the displaced person will apply the match amount toward the downpayment, or may require that the full amount of the payment be applied toward the purchase price of the replacement and related incidental expenses. the payment toward business or farm reestablishment costs.

SECTION 62. ILHR 202.98 (2) (e) is created to read:

ILHR 202.98 (2) (e) An owner eligible for a payment under s. ILHR 202.92 is ineligible for a downpayment assistance payment under this section.

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

END

Tommy G. Thompson
Governor
Gerald Whitburn
Secretary



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State of Wisconsin Department of Industry, Labor and Human Relations

September 15, 1989

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Douglas LaFollette
Secretary of State
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RECEIVED

SEP 15 1989

Dear Messrs. Poulson and LaFollette:

Revisor of Statutes
Bureau

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO. 89-50
RULE NO. ILHR 202
RELATING TO: Relocation Assistance

Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,


Gerald Whitburn
Secretary