

1969 Assembly Bill 604

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**CHAPTER 409, LAWS OF 1969**

AN ACT to repeal and recreate 32.19; and to create 20.545 (2) (d) and 32.25 to 32.27 of the statutes, relating to relocation payments to displaced persons, farm operations and business concerns by condemnors with the approval of the department of local affairs and development and providing an appropriation.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. At the appropriate place in section 20.005 of the statutes insert the following amounts for the purposes indicated:

<b>20.545 Local Affairs and Development,</b>	1969-70	1970-71
<b>Department of</b>		
(2) Relocation Assistance		
(d) Relocation Assistance operations	GPR	A

SECTION 2. 20.545 (2) (d) of the statutes is created to read:

20.545 (2) (d) *Relocation assistance operations.* The amounts in the schedule for the execution of its functions under ss. 32.19, and 32.25 to 32.27.

SECTION 3. 32.19 of the statutes is repealed and recreated to read:

32.19 **ADDITIONAL ITEMS PAYABLE.** (1) **DECLARATION OF PURPOSE.** The legislature declares that it is in the public interest that persons displaced by any public project be fairly compensated by payment for the property acquired and other losses hereinafter described and suffered as the result of programs designed for the benefit of the public as a whole; and the legislature further finds that payment of such relocation assistance and assistance in the acquisition of replacement housing are proper costs of the construction of public improvements. If a public improvement is funded in whole or in part by a nonlapsible trust, the relocation payments and assistance constitute a purpose for which the fund of the trust is accountable.

(2) **DEFINITIONS.** In this section and ss. 32.25 to 32.27:

(a) "Person" means:

1. Any individual, partnership, corporation or association which owns a business concern; or
2. Any owner, part owner, tenant or sharecropper operating a farm; or
3. An individual who is the head of a family; or
4. An individual not a member of a family.

(b) "Family" means 2 or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption or legal guardianship.

(c) "Displaced person" means any person who moves from real property on or after the effective date of this section (1969), as a result of the acquisition or reasonable expectation of acquisition of such real property, in whole or in part, which is subsequently acquired, in whole or in part, for public purposes or, as the result of the acquisition for public purposes of other real property on which such person conducts a business or farm operation.

(d) "Business" means any corporation, partnership, individual, or other private entity, including a nonprofit organization, engaged in some type of business, professional, or institutional activity, necessitating fixtures, equipment, stock in trade or other tangible property for carrying on the business, profession or institution.

(e) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) "Comparable dwelling" means one which, when compared with the dwelling being taken, is substantially equal concerning all major characteristics and functionally equivalent with respect to: the number of rooms, area of living space, type of construction, age, state of repair, type of neighborhood and accessibility to public services and places of employment. "Comparable dwelling" shall meet all of the standard building requirements and other code requirements of the local governmental body and shall also be decent, safe and sanitary as defined by the department of local affairs and development and the department of industry, labor and human relations, jointly.

(3) RELOCATION PAYMENTS. Any condemnor which proceeds with the acquisition of real and personal property for purposes of any project for which the power of condemnation under this chapter may be exercised, shall make fair and reasonable relocation payments to displaced persons, business concerns and farm operations under this section. The following items shall be compensable in eminent domain proceedings where shown to exist. Payments shall be made as follows:

(a) *Moving expenses; actual.* The condemnor shall compensate a displaced person for his actual and reasonable expenses in moving himself, his family, his business or his farm operation, including personal property. Such relocation payments are limited only to new locations within 50 miles of the original site and within this state.

(b) *Moving expenses; optional fixed payments.* 1. "Dwellings." Any displaced person who moves from a dwelling and who elects to accept the payments authorized by this paragraph in lieu of the payments authorized by par. (a) may receive a moving expense allowance, determined according to a schedule established by the condemnor not to exceed \$200 and dislocation allowance of \$100.

2. "Businesses and farm operations." Any displaced person who moves or discontinues his business or farm operation and who elects to accept payment authorized under this paragraph in lieu of the payment authorized under par. (a), may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, or \$5,000, whichever is the lesser. In the case of a business, no payment shall be made under this subsection unless the condemnor, subject to appeal by the condemnee to the department of local affairs and development, is satisfied that the business:

a. Is not able to be relocated without a substantial loss of its existing patronage; and

b. Is not part of a commercial enterprise having at least one other establishment, not being acquired by the condemnor which is engaged in the same or similar business. For the purpose of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before payment of federal, state and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project. "Average annual net earnings" includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such 2-year period. To be eligible for the payment authorized by this subsection, the business or farm operation shall make its state and federal income tax returns available and its financial statements and accounting records available for audit to determine the payment authorized by this subsection.

3. "Replacement housing." In addition to amounts otherwise authorized by this chapter, the condemnor shall make a payment to the owner of real property acquired for a project which is improved by a single, 2-family or 3-family dwelling actually owned and occupied by the owner for not less than one year prior to the initiation of the attempt to purchase such property. Such payment, not to exceed \$5,000, shall be the amount which, when added to the acquisition payment, equals the average price required for a comparable dwelling as determined by the department of local affairs and development and the department of industry, labor and human relations, jointly, to be a decent, safe and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market. Such payment shall be made only to a displaced owner who purchases and occupies a decent, safe and sanitary dwelling within one year subsequent to the date on which he moves from the dwelling acquired for the project. In addition to amounts otherwise authorized by this section, the condemnor shall make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under par. (a) which dwelling was actually and lawfully occupied by such individual or family for not less than 90 days prior to the initiation of the attempt to purchase such property. Such payment, not to exceed \$1,500, shall be the amount which is necessary to enable such person to lease or rent for a period not to exceed 2 years, or to make the down payment on the purchase of a decent, safe and sanitary dwelling meeting standards established by the department of local affairs and development and the department of industry, labor and human relations, jointly and adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities, public and commercial facilities and places of employment.

(4) EXPENSES INCIDENTAL TO TRANSFER OF PROPERTY. (a) In addition to amounts otherwise authorized by this chapter, the condemnor shall reimburse the owner of real property acquired for a project for all reasonable and necessary expenses incurred for:

1. Recording fees, transfer taxes and similar expenses incidental to conveying such property;

2. Penalty costs for prepayment of any mortgage entered into in good faith encumbering such real property if the mortgage is recorded or has been filed for recording as provided by law on the date of approval by the condemnor of the location of such project; and

3. The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting of title in the condemnor or the effective date of possession of such real property by the condemnor, whichever is earlier.

4. The cost of realigning personal property on the same site in partial takings or where realignment is required by reason of elimination or restriction of existing used rights of access.

5. Net rental losses resulting from vacancies during the year preceding the taking of the property, provided that such loss is limited to the amount that exceeds the average annual rental losses caused by vacancies during the first 4 years of the 5-year period immediately preceding the taking; and such rental loss was caused by the proposed public land acquisition.

6. Expenses incurred for plans and specifications specifically designed for the property taken and which are of no value elsewhere because of the taking.

(c) *Refinancing costs.* All expenses incurred by the owner to finance the purchase of another property substantially similar to the property taken provided that: 1) At the time of the taking the land condemned was subject to a bona fide mortgage or was held under a vendee's interest in a bona fide land contract, and 2) such mortgage or land contract had been executed in good faith prior to the date of the relocation order in condemnation under s. 32.05 or determination of necessity of taking in condemnation under s. 32.06. Such expenses shall include:

1. Reasonable fees, commissions, discounts, surveying costs and title evidence costs necessary to refinance the balance of the debt at the time of taking if actually incurred.

2. Increased interest cost above that provided in the former financing. The computation of the increased interest costs shall be based upon and limited to:

a. A principal amount of indebtedness not to exceed the unpaid debt at the date of taking.

b. A term not to exceed the remaining term of the original mortgage or land contract at the date of taking.

c. An interest rate not to exceed the prevailing rate charged by mortgage lending institutions doing business in the vicinity.

d. The present worth of the future payments of increased interest computed at the same rate of interest as in subd. 2. c.

(d) No payments received under this section shall be considered as income for the purposes of ch. 71; nor shall such payments be considered as income or resources to any recipient of public assistance and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under any welfare law.

(5) EMINENT DOMAIN. Nothing in ss. 32.19 or 32.25 to 32.27 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of damages.

SECTION 4. 32.25 to 32.27 of the statutes are created to read:

32.25 RELOCATION PAYMENT PLAN AND ASSISTANCE SERVICES. (1) No condemnor shall proceed with any property acquisition activities on any project which may involve acquisition of property and displacement of persons, business concerns or farm operations until the condemnor has filed in writing a relocation payment plan and relocation assistance service plan and has had both such plans approved in writing by the department of local affairs and development.

(3) The relocation assistance service plan shall contain evidence that the condemnor has taken reasonable and appropriate steps to:

(a) Determine the cost of any relocation payments and services or the methods that are going to be used to determine such costs.

(b) Assist owners of displaced business concerns and farm operations in obtaining and becoming established in suitable business locations or replacement farms.

(c) Assist displaced owners or renters in the location of comparable dwellings.

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(d) Supply information concerning programs of federal, state and local governments which offer assistance to displaced persons and business concerns.

(e) Assist in minimizing hardships to displaced persons in adjusting to relocation.

(f) Secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the implementation of the relocation program.

(g) Determine the approximate number of persons, farms or businesses that will be displaced and the availability of decent, safe and sanitary replacement housing.

(h) Assure that, within a reasonable time prior to displacement, there will be available, to the extent that may reasonably be accomplished housing meeting the standards established by the department of local affairs and development and the department of industry, labor and human relations, jointly for decent, safe and sanitary dwellings. The housing, so far as practicable, shall be in areas not generally less desirable in regard to public utilities, public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced and equal in number to the number of such displaced families or individuals and reasonably accessible to their places of employment.

32.26 AUTHORITY OF THE DEPARTMENTS OF LOCAL AFFAIRS AND DEVELOPMENT AND INDUSTRY, LABOR AND HUMAN RELATIONS. (1) In addition to all other powers granted in this chapter, the department of local affairs and development shall consult with the department of industry, labor and human relations in the formulation of local standards for decent, safe and sanitary dwelling accommodations.

(2) The department of local affairs and development and the department of industry, labor and human relations, jointly may make such rules as are necessary to carry out its functions in regard to local standards for decent, safe and sanitary dwelling accommodations.

(3) If a condemnor has a substantial number of projects involving relocation payments and assistance which are subject to regulation by the federal government, the condemnor shall not be required to submit a relocation plan for any project under such regulation. The department may make investigations to determine if the condemnor is complying with the plan approved by the department of local affairs and development. The department may seek an order from the circuit court or county court requiring a condemnor to comply with the plan approved by the department of local affairs and development or to discontinue work on that part of the project which is not in compliance with the plan. The court shall give hearings on such actions precedence on the court's calendar.

(4) Upon the request of the department of local affairs and development, the attorney general shall aid and prosecute, all necessary actions or proceedings for the enforcement of this chapter and for the punishment of all violations thereof.

32.27 RECORDS TO BE KEPT BY CONDEMNOR. (1) CONTENTS OF RECORDS. The condemnor shall maintain records for each project requiring a relocation payment plan. The records shall contain such information as are necessary to carry out ss. 32.19 and 32.25 to 32.27. The records shall be preserved by the condemnor for a period not less than 3 years after conclusion of the project to which the records pertain.

(2) COSTS OF RELOCATION PAYMENTS AND SERVICES; SHARING FORMULA.  
(a) The costs of relocation payments and services shall be computed and paid by the condemnor and included as part of the total project cost.

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(b) If there is a project cost-sharing agreement between the condempnor and another unit or level of government, the costs of relocation payments and services shall be shared in the same proportion as other project costs unless otherwise provided. This direct proportion formula may be changed to take advantage of federal relocation subsidies.

SECTION 7. CORRECTIONS. (1) The list of program responsibilities of the department of local affairs and development under section 15.281 (intro.) of the statutes, as affected by the laws of 1969, is amended to include reference to ss. 32.19 and 32.25 to 32.27.

(2) The list of program responsibilities of the department of industry, labor and human relations, under section 15.221 (intro.) of the statutes, as affected by the laws of 1969, is amended to include reference to ss. 32.19 and 32.25 to 32.27.

SECTION 8. This act shall take effect July 1, 1970.

Approved February 11, 1970.

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