

RULES CERTIFICATE

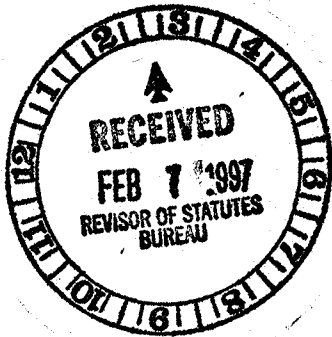
Department of Commerce

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, William J. McCoshen, Secretary of the Department of Commerce,
and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to
Relocation Assistance
(Subject)

were duly approved and adopted by this department.

I further certify that said copy has been compared by me with the original on file in the 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 at 2:00 pm
in the city of Madison, this 7th
day of February A.D. 19 97

William J. McCoshen
Secretary

ORDER OF ADOPTION

Department of Commerce

Pursuant to authority vested in the Department of Commerce by section(s) 32.19 to 32.27

_____ Stats., the Department of Commerce creates; amends;

repeals and recreates; repeals and adopts rules of Wisconsin Administrative Code chapter(s):

ILHR ch. 202 Relocation Assistance
(number) (Title)

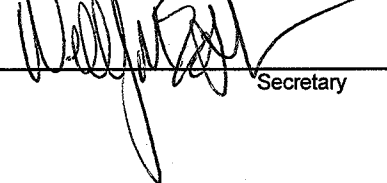
The attached rules shall take effect on the first day of the month following publication

_____ pursuant to section 227.22, Stats.

Adopted at Madison, Wisconsin this

date: February 7, 1997

DEPARTMENT OF COMMERCE



Secretary

ILHR ch. 202 Amendments

Final Draft Rule Text

The Wisconsin Department of Commerce proposes an order to repeal ILHR 202.67(3)(f); to amend ILHR 202.01(33)(a)intro., ILHR 202.67(2)(c), (h) and (j), and 202.68(9)(b)intro.; to repeal and recreate ILHR 202.14; and to create ILHR 202.01(14)(b)11, (21)(c), and (32m), relating to relocation assistance.

Plain Language Analysis

This proposed rule would make a number of changes to ch. ILHR 202, Wis. Adm. Code, which is the rule that establishes minimum standards for providing relocation payments and services to a person who moves from a dwelling, business or farm because of a property acquisition for a public project. ILHR 202 interprets §§32.19 to 32.27, Stats., and the statutory authority for the rule is provided by §32.26(2), Wis. Stats.

Section 1 of the rule amends the definition of "displaced person" to provide that, except for federally aided projects and outdoor advertising signs, this term does not include a tenant who is allowed to occupy leased premises to the end of the lease, or for 180 days, or for a period of time equal to one-half of the term of the lease, or for a time period set by the condemnor, whichever of these alternatives is the longest.

Section 2 of the rule amends the definition of "initiation of negotiations" to provide that this term does not include signing a lease, responding to an offer to sell (under specified conditions), or obtaining a right of first refusal (under specified conditions).

Section 3 of the rule creates a definition of "public financial assistance" as "direct funding received from a public entity."

Section 4 amends the definition of "public project" to remove a reference to "expected" funding, change the minimum level of public assistance covered from \$5,000 to \$25,000, and change the minimum percentage of funding covered from 10% to 50%.

Section 5 repeals and recreates the provisions on monitoring and enforcement to provide that the Department shall promote opportunities for training in compliance with state relocation assistance requirements and may certify the relocation assistance program of a unit of state or local government if it determines that the program meets state standards. A certified program will not be required to submit relocation assistance plans for Department review. The Department will monitor certified programs and may revoke certification upon a determination that a program does not meet state standards.

Sections 6 and 7 amend the current rule provision on business and farm re-establishment payments to bring it into conformity with revised regulations of the Federal Highway Administration. Although there is no change in the overall maximum payment of \$10,000, the limits on three subcategories are removed. Also removed is a provision which had barred any re-establishment payment to a person whose sole business at a displacement site is the rental of the site to others unless the business had at least one employee on site.

Section 8 amends the rule provisions on replacement housing payments. The current rule states that the condemnor shall provide assistance beyond that required by the rule if a comparable dwelling is unavailable within a person's financial means. The rule deletes the word "shall" and replaces it with "may." This makes the rule consistent with the language of the statute (§32.19(4)(c), Stats.), and follows a 1993 opinion of the DILHR legal counsel that the agency does not have the authority to impose a greater obligation by rule than the obligation imposed by the statute.

This rulemaking proceeding was initiated under the Department of Industry, Labor and Human Relations. The program was transferred to the Department of Commerce on July 1, 1996.

SECTION 1. ILHR 202.01(14)(b)11 is created to read:

ILHR 202.01(14)(b)11 For projects that do not receive federal funds and properties that do not involve an outdoor advertising sign or an outdoor advertising company tenant, a tenant who is allowed to occupy leased premises to the end of the term of the lease, or for 180 days, or for a period of time equal to one-half of the term of the lease, or for a period of time determined by the condemnor, whichever of these four alternatives is longer.

SECTION 2. ILHR 202.01(21)(c) is created to read:

ILHR 202.12(21)(c) "Initiation of negotiations" does not include:

1. Entering into a lease, including a lease with an option to purchase.

2. Responding to an offer to sell property and negotiating for the purchase of the property, when the offer does not involve the involuntary displacement of any occupant of the property and the agency is not implementing a project to acquire the property.

3. Obtaining a right of first refusal to acquire that does not also include a monetary offer or establishment of a purchase price and does not otherwise commit the agency to the acquisition of the property.

SECTION 3. ILHR 202.01(32m) is created to read:

ILHR 202.01(32m) "Public financial assistance" means direct funding received from a public entity. An authority which uses its own funds for a project is not receiving "public financial assistance."

SECTION 4. ILHR 202.01(33)(a)intro. is amended to read:

ILHR 202.01(33)(a)intro. "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~~ \$25,000 in a project having total costs of less than \$50,000 or at least ~~10%~~ 50% in a project having total costs of \$50,000 or more, and involve one of the following activities:

SECTION 5. ILHR 202.14 is repealed and recreated to read:

ILHR 202.14 Education, certification and monitoring. (1) EDUCATION.

The department shall promote and place emphasis upon opportunities for interested persons to receive training in the relocation assistance requirements of ch. 32, Stats., and this chapter.

(2) CERTIFICATION. The department may certify the relocation assistance program of a unit of state or local government upon a determination that the certified program meets the standards followed by the department in administering the relocation assistance requirements of ch. 32, Stats., and this chapter. A unit of government with a certified relocation assistance program shall not be required to submit relocation plans to the department for prior approval under s. ILHR 202.26. A unit of government with a certified relocation assistance program shall retain all of its program records for the periods of time specified by the department. The department may examine any records of a certified relocation assistance program. The department shall monitor and audit all certified programs and may revoke the certification of a program upon a determination that the program does not continue to meet the standards for certification.

(3) ENFORCEMENT. Complaints shall be received and investigated as provided in s. ILHR 202.18.

SECTION 6. ILHR 202.67(2)(c), (h) and (j) are amended to read:

ILHR 202.67(2)(c) Construction and installation costs for exterior signing to advertise the business, ~~not to exceed \$1,500.~~

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

(j) Increased costs of operation during the first 2 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.~~

SECTION 7. ILHR 202.67(3)(f) is repealed.

SECTION 8. ILHR 202.68(9)(b)(intro.) is amended to read:

ILHR 202.68(9)(b)(intro.) An agency ~~shall~~ may provide assistance in addition to that required in sub. (9) if a comparable dwelling is unavailable within a person's financial means. The additional assistance may include one or more of the following methods:

SECTION 9. INITIAL APPLICABILITY. The changes made by section 1 of this rule shall apply to projects which are formally commenced after the effective date of the rule. All other changes made by this rule shall take effect on the effective date.

SECTION 10. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in §227.22(2)(intro.), Stats.

(End)



123 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
William J. McCoshen, Secretary

February 7, 1997

Gary Poulson
Assistant Revisor of Statutes
Suite 800
131 West Wilson Street
Madison, Wisconsin 53703-3233

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO.: 95-069

RULE NO.: ILHR ch. 202

RELATING TO: Relocation Assistance

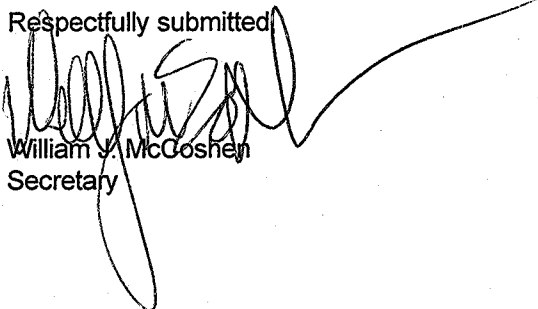
Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

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 included for permanent rules. A fiscal estimate and fiscal estimate worksheet is included with an emergency rule.

Respectfully submitted,


William J. McCoshen
Secretary