

Washington Legislature Imposes New Relocation Requirements for Exercise of Eminent Domain

Under the Washington and federal constitutions, entities acquiring property through eminent domain must pay just compensation for that property. In addition to the payment of just compensation to the property owner, persons displaced from the property may also receive relocation assistance, including assistance with moving costs, costs of reestablishing businesses, and other similar costs.

In 1970, Congress enacted the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (“Uniform Relocation Act”), establishing minimum relocation assistance standards for federally funded eminent domain projects. In 1971, the Washington State Legislature enacted a state relocation act (“State Relocation Act”), which closely tracked the federal act with a few notable exceptions. Generally, federal law requires that relocation assistance laws apply to all state and local governments engaged in projects that are funded in whole or in part by federal monies. Until 2017, in cases not involving federal funds, entities acquiring property through eminent domain were not required to comply with relocation assistance laws. During the 2017 Session, the Washington Legislature closed this loophole and made other significant changes to the State Relocation Act in two separate and important bills.

In Senate Bill 5049, the Legislature made relocation assistance mandatory, even when a project does not include federal funding sources. SB 5049 requires the state, local public agencies, and other persons who have the authority to acquire property by eminent domain under state law to comply with the State Relocation Act, chapter 8.26 RCW. The only exception to this requirement is for programs or projects initiated on or before December 31, 2017. SB 5049 also provides that any state or local public agency providing a grant, loan, or matching funds for any program or project that displaces persons who are eligible for relocation assistance may not limit, restrict, or otherwise prohibit grant, loan, or matching fund money from being used for any required relocation assistance payments.

In House Bill 1615, the Legislature revised the state relocation assistance provisions to more closely track the Uniform Relocation Act. Specifically, HB 1615 provides that certain assistance payments must comply with either federal requirements or state requirements, whichever is greater. In effect, this increases the minimum required payments for certain business reestablishment, moving expense, and replacement housing payments. Additionally, HB 1615 revises certain length of occupancy requirements to qualify for assistance payments to track the federal requirements.