

A LOCAL LAW
amending the Laws of
Westchester County
by adding a new
Chapter 187 relating
to the creation of the
Office of Housing
Counsel.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 187 is hereby added to the Laws of Westchester
County to read as follows:

Chapter 187

OFFICE OF HOUSING COUNSEL

Sec. 187.11. Short Title.

Sec. 187.21. Purpose.

Sec. 187.31. Definitions.

Sec. 187.41. Director, Appointment, Term.

Sec. 187.51. Director, Powers and Duties.

Sec. 187.61. Provision of Legal Services.

Sec. 187.71. Annual Report.

Sec. 187.81. Rules and Regulations.

Sec. 187.91. Severability.

Sec. 187.101. Reverse Preemption

Sec. 187.11 Short Title.

**This Chapter shall be known as and cited as “The Office of Housing
Counsel.”**

Sec. 187.21 Establishment, Purpose

**There shall be a program known as the Office of Housing Counsel
located within the Department of Social Services, the purpose of which is to
provide legal counsel to individuals in housing matters involving eviction. The
provision of housing counsel will guarantee that qualified individuals are
provided high quality legal representation at the County’s expense in all covered
proceedings and will enable tenants facing the complex process of eviction**

proceedings to be given a fair chance to access legal protections and stay in their homes. The Office of Housing Counsel will ensure that tenants facing eviction will be provided with professional client centered legal representation.

Sec. 187.31 Definitions.

- a. Brief legal assistance. Individualized legal assistance provided in a single consultation by a designated organization or qualified professional to a covered individual in connection with a covered proceeding.
- b. Designated community group. A not-for-profit organization that has the capacity to conduct tenant outreach, engagement, education and information provision, as determined by the Director.
- c. Covered individual. A tenant of a rental dwelling unit located within the County including any tenant in a building operated by a public housing authority who is a respondent, or has legal standing to be a respondent, in a covered proceeding.
- d. Covered proceeding. Any summary proceeding in any of the courts in the County or before any administrative agency administering housing programs to evict a covered individual, including a summary proceeding to seek possession for the non-payment of rent or a holdover, or an appeal of such a proceeding, or an administrative proceeding conducted by a public housing authority or other administrative agency which would result in the termination of tenancy, rental subsidy, or other rental assistance.
- e. Department. The Department of Social Services.
- f. Designated organization. One or more not-for-profit organizations or associations that have the capacity to provide legal services and have been designated by the County to provide legal services pursuant to the County procurement process and any other County laws and procedures related to County contracts.
- g. Director. The person who administers the Office of Housing Counsel and reports to the Commissioner of Social Services.
- h. Full legal representation. Ongoing legal representation provided by any designated organization or qualified professional to an income-eligible individual and all legal advice, advocacy and assistance associated with such representation. Full legal representation includes, but is not limited to, the filing of a notice of appearance on behalf of the income-eligible individual in a covered proceeding.
- i. Housing court. Any court located in Westchester County in which a summary proceeding or other action or proceeding seeking possession of a

residential rental unit is adjudicated.

- j. Income-eligible individual. A covered individual whose annual gross household income is not in excess of 300 percent of the federal poverty guidelines as updated periodically in the federal register by the United States Department of Health and Human Services pursuant to subsection (2) of section 9902 of title 42 of the United States code.
- k. Legal services. Either brief legal assistance or full legal representation.
- l. Qualified Professional. Lawyers with experience handling landlord tenant matters and who have been designated by the County to provide legal services pursuant to the County procurement process and any other County laws and procedures related to County contracts.

Sec. 187.41. Director; appointment, qualifications, term

- a. The County Executive shall appoint a Director. The following qualifications shall be considered in the appointment of the Director: possession of a license to practice law in the State of New York, administrative experience, knowledge and experience in eviction proceedings, and commitment to ensuring quality representation in landlord tenant matters;
- b. The Director shall serve full time and shall not engage in the private practice of law during their appointment;
- c. The Director shall report to the Commissioner of Social Services.

Sec. 187.51. Director; Powers and Duties

- a. The Director shall be the administrative head of the office, and shall have the duty to ensure that all covered individuals and income eligible individuals are provided with quality legal representation as soon as practicable in a covered proceeding in housing court or in any administrative proceeding related to evictions. The position of Director shall be designated in the exempt class for purposes of civil service jurisdictional classification;
- b. Develop and monitor policies, standards and operational procedures of the Office of Housing Counsel regarding preparation of a Request For Proposals (RFP) to obtain designated organizations or qualified professionals, for the provision of legal counsel including but not limited to: qualifications for attorneys providing legal counsel, number of attorneys required at each housing court or any administrative

proceedings, limitations on attorney caseloads, method of payment for attorneys, supervision and review of attorney caseloads and quality of legal representation;

- c. In consultation with the Commissioner of Social Services, the Budget Director and the Commissioner of Human Resources, identify the staffing needs necessary to administer the Office of Housing Counsel program;
- d. Recommend to the Commissioner of Social Services and the County Executive designated organizations to provide legal services to covered individuals in covered proceedings based upon the response to the RFP and ensure that any contracts for designated organizations are approved by the appropriate body or board;
- e. Meet regularly with appropriate persons from the designated organizations and qualified professionals to review cases, attorney work product, caseloads and case outcomes;
- f. Prepare an annual Budget proposal for the Office of Housing Counsel as part of the Budget for the Department for submission to the County Budget Department pursuant to County law and policy;
- g. Maintain records of accounts and expenditures of the Office of Housing Counsel in compliance with all applicable law and County policy;
- h. Serve as an information resource;
- i. Establish procedures for submission, investigation and resolution of complaints from clients, client family members, co-counsel, opposing counsel and the Judiciary regarding legal representation;
- j. Ensure compliance with County laws, policies and procedures;
- k. Make application for other sources of state and federal funding or from any other funding resources to meet the budgetary and programmatic needs of the Office of Housing Counsel;
- l. Prepare an Annual Report regarding the housing counsel program for submission to the County Executive and Board of Legislators. The Annual Report shall also be posted online;
- m. Undertake community engagement and education regarding right to counsel by working with designated community groups to educate and inform tenants about their rights in housing court and in administrative proceedings related to evictions, including but not limited to holding know your rights education sessions, distributing written information to

tenants and facilitating referrals of tenants to designated community groups.

- n. Meet regularly with the Supervising Judge of the Ninth Judicial District and any other appropriate Court personnel to discuss Court procedures and any other programmatic issues related to the provision of counsel in tenant eviction proceedings.
- o. Any other duties necessary to carry out the purposes of this Chapter.

Sec. 187.61 Provision of Legal Services.

- a. No later than six (6) months following enactment of this Chapter, the Director shall develop an implementation plan for establishment of a program to provide access to legal services for covered individuals in covered proceedings in housing courts located in any of the cities within the County through designated organizations or qualified professionals; access to legal services for all covered individuals in all town and village courts within the County through designated organizations or qualified professionals shall be provided within thirty-six (36) months following enactment of this Chapter. Such program shall ensure that:
 - 1. all covered individuals receive access to brief legal assistance as soon as practicable in a covered proceeding in housing court; and
 - 2. All income-eligible individuals receive access to full legal representation as soon as practicable in a covered proceeding in housing court.
- b. No later than six (6) months following enactment of this Chapter, the Director shall develop an implementation plan for establishment of a program to provide access to legal services in administrative proceedings for tenants of buildings operated by public housing authorities, tenants of private buildings who receive tenant- or project-based rental subsidies, or other rental assistance, and have been served with notices for administrative proceedings for termination of tenancy or rental subsidy or other rental assistance located in cities within the County through designated organizations or qualified professionals; access to legal services for tenants in administrative proceedings for termination of tenancy or rental subsidy or other rental assistance in all towns and villages through designated organizations or qualified professionals within the County within thirty-six (36) months following enactment of this Chapter.
- c. The Director shall comply with all County budgetary procedures and submit estimates for the operation of the Office of Housing Counsel for the ensuing year to the Commissioner of the Department of Social

Services for submission as part of the Department's proposed Budget.

- d. The County shall annually review the performance of designated organizations and qualified professionals.
- e. Any legal services performed by a designated organization pursuant to this chapter shall not supplant, replace, or satisfy any obligations or responsibilities of such designated organization pursuant to any other program, agreement, or contract.
- f. Nothing in this chapter or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the County or any agency, official, or employee thereof.

Sec. 187.71 Reporting.

- a. Following implementation of any part of a program to provide legal services to covered individuals pursuant to this Chapter, the Director shall prepare an Annual Report which shall be submitted to the County Executive, the Board of Legislators and shall be posted online, no later than December 31st of each year containing information for the preceding 12 months of each year;
- b. The Annual Report shall contain, to the extent such information is available, a review of the program established by this Chapter and information regarding implementation of such program and shall include but not be limited to:
 - 1. The estimated number of covered individuals;
 - 2. The number of individuals receiving legal services, including the following characteristics of such individuals:
 - i. City and postal code of residence;
 - ii. Household size;
 - iii. Estimated length of tenancy;
 - iv. Approximate household income;
 - v. Type of legal services provided.
 - 3. Outcomes immediately following the provision of full legal

representation, as available, subject to applicable privacy and confidentiality restrictions, including but not limited to, the number of:

- i. Case dispositions allowing individuals to remain in their residence;
 - ii. Case dispositions requiring individuals to be displaced from their residence;
 - iii. Instances where the attorney was discharged or withdrew.
4. The number of non-payment and holdover petitions filed in housing court, warrants of eviction issued in housing court, and residential evictions conducted by marshals.
5. Expenditures for the program established pursuant to this Chapter.
6. Community engagement and education activities conducted pursuant to this Chapter detailing metrics from designated community groups, including but not limited to:
- i. number of buildings in which outreach was conducted;
 - ii. number of know your rights education sessions held;
 - iii. number of attendees at education sessions;
 - iv. number of people referred to nonprofits for legal assistance;
and
 - v. number of community forums conducted.

Sec. 187.81. Rules and Regulations

The Director, shall establish rules and regulations for the administration of the Office of Housing Counsel.

Sec. 187.91. Severability

If any clause, sentence, paragraph, subdivision, section, or part of this ordinance or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this ordinance, or in its application to the person, individual, corporation, firm,

partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Sec 187.101. Expiration.

This Local Law shall expire and become null and void in the event that the State of New York enacts legislation providing for the civil right to counsel in eviction proceedings.

§2. This Local Law shall take effect six (6) months after enactment.