

# Legislation Meeting Agenda



Committee Chair: Colin Smith

800 Michaelan Office Bldg.  
148 Martine Avenue, 8th Floor  
White Plains, NY 10601  
www.westchesterlegislators.com

---

Wednesday, May 18, 2022

3:00 PM

Committee Room

---

## CALL TO ORDER

Joint with the Committee on Housing

## MINUTES APPROVAL

### I. ITEMS FOR DISCUSSION

[2022-45](#)

**LEGISLATORS PARKER AND SMITH: PH - Flood History Disclosure Law**

A RESOLUTION to set a Public Hearing on "A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 581 requiring landlords to provide tenants with a flood history disclosure." [Public Hearing set for \_\_\_\_\_, 2022 at \_\_\_\_\_ .m.]. LOCAL LAW INTRO 2022-46.

**COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HOUSING**

Guests: Department of Law - Justin Adin, Deputy County Attorney; The Building & Realty Institute - Tim Foley, Executive Director; Hudson Valley Gateway Association of Realtors - Mike Nepl, Government Affairs Director

[2022-46](#)

**LEGISLATORS PARKER AND SMITH: LL - Flood History Disclosure Law**

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 581 requiring landlords to provide tenants with a flood history disclosure.

**COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HOUSING**

Guests: Department of Law - Justin Adin, Deputy County Attorney; The Building & Realty Institute - Tim Foley, Executive Director; Hudson Valley Gateway Association of Realtors - Mike Nepl, Government Affairs Director

[2022-261](#)

**PH-Office of Housing Counsel**

A RESOLUTION to set a Public Hearing on "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." [Public Hearing set for \_\_\_\_\_, 2022 at \_\_\_\_\_ .m.]. LOCAL LAW INTRO: 2022-262.

**COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HOUSING**

Guests: Department of Law - Stacey Dolgin-Kmetz, Chief Deputy County Attorney; Legal

Services of the Hudson Valley - Rachel Halperin, Chief Executive Officer; Hudson Valley Justice Center - Virginia Foulkrod, Esq., Executive Director; Westchester County Right to Counsel Coalition - Jason Mays, Co-Chair, Barbara Finkelstein, Co-Chair

[2022-262](#)      **LOCAL LAW-Office of Housing Counsel**

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.

**COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HOUSING**

Guests: Department of Law - Stacey Dolgin-Kmetz, Chief Deputy County Attorney; Legal Services of the Hudson Valley - Rachel Halperin, Chief Executive Officer; Hudson Valley Justice Center - Virginia Foulkrod, Esq., Executive Director; Westchester County Right to Counsel Coalition - Jason Mays, Co-Chair, Barbara Finkelstein, Co-Chair

## II. OTHER BUSINESS

## III. RECEIVE & FILE

## ADJOURNMENT

**Catherine F. Parker****Legislator, 7th District**

Chair, Committee on Human Services/Equality

**Committee Assignments:**

Budget & Appropriations  
Economic Development  
Environment & Energy  
Housing  
Law & Major Contracts  
Parks & Recreation  
Public Works & Transportation

To: Catherine Borgia, Chairwoman of the Board of Legislators  
Sunday Vanderberg, Clerk of the Board of Legislators

FROM: Catherine Parker, Legislator, 7<sup>th</sup> District

Date: January 19, 2022

RE: Flood History Disclosure Law

---

Please place the attached proposed local law amending the Laws of Westchester County by adding a new Chapter 581 “requiring landlords to provide tenants with a flood history disclosure” in the appropriate committees on the January 24, 2022 Westchester County Board of Legislators agenda.

**TO: HONORABLE BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER**

Your Committee recommends passage of “A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 581 requiring landlords to provide tenants with a flood history disclosure.”

Your Committee is aware that over the past number of years increases in the intensity and frequency of rain storms due to Climate Change have caused extraordinary flooding in Westchester County. Due to these ever-growing storms, area residents have experienced costly property damage to their homes and assets. Additionally, business owners have also faced serious challenges from the rise in flooding related issues by being forced to temporarily close for expensive capital repair or through the loss of inventory.

Your Committee is aware that the Long Island Sound Shore in 2007, 2011, 2012 and most recently in 2021 tenants were hit with flooding of basement apartments which resulted in some cases with water rising up over five feet. Over the course of the next few years, these apartments were leased out to new tenants. These new tenants were unaware of the property’s propensity for significant and life threatening flooding and suffered expensive and massive property damage similar to that which occurred after storms in 2007. In one instance, the new tenants were luckily awoken by the storm and were able to move their child from its crib as water was climbing on all sides.

Your Committee is also aware that the flash flooding of the tri-state area on September 1, 2021 caused at least 11 (eleven) deaths in basement apartments in New York City as tenants were inundated with water and could not get out of their apartments.

A 2014 Study conducted by the New York State Energy Research and Development Authority (NYSERDA) found that precipitation across New York State is projected to increase by approximately 1-8 percent by the 2020s, 3-12 percent by the 2050s, and 4-15 percent by the 2080s. Additionally, sea level is projected to rise along the New York State coastline and in the tidal Hudson by 3-8 inches by the 2020s, 9-21 inches by the 2050s, and 14-39 inches by the 2080s. This rise in precipitation and sea level is a dangerous combination to those who own property on land with a propensity for flooding.

Your Committee is aware that the intent of this proposed Local Law is to require owners of property to disclose flood history of a building prior to the signing of a lease with a tenant. This requirement, through provision of a “flood disclosure” form to the tenant, will serve as a safety net for both lessors and lessee. The lessor can be assured that they will not be liable for any damages as a result of failing to disclose a property’s propensity for flooding and previous height of water, while the lessee will have a remedy to recover the unfair damages they may suffer at the hands of an unscrupulous landlord who fails to disclose all of the details of the property they are leasing.

Your Committee is further advised that the proposed Local Law will, if adopted, provide for civil remedies for violations of its provisions. Specifically, violation of the local law would authorize the commencement of civil actions for equitable relief and costs.

Your Committee is informed that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated May 14, 2021, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this proposed Local Law adding Chapter 581 to the Laws of Westchester County.

Dated: 2022  
White Plains, New York

COMMITTEE ON

**RESOLUTION NO. \_\_\_\_ -2022**

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. \_\_\_\_ - 2022, entitled “A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 581 requiring landlords to provide tenants with a flood history disclosure.” The public hearing will be held at \_\_.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

**LOCAL LAW INTRO. NO. -2022**

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 581 requiring landlords to provide tenants with a flood history disclosure.

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

Section 1. A new Chapter 581 is hereby added to the Laws of Westchester

County to read as follows:

**CHAPTER 581**

**FLOOD HISTORY DISCLOSURE LAW**

**Sec. 581.01. Short Title.**

**Sec. 581.11. Definitions.**

**Sec. 581.21. Required Conduct.**

**Sec. 581.31. Civil Causes of Action.**

**Sec. 581.41. Joint and Several Liability.**

**Sec. 581.51. Construction.**

**Sec. 581.61. Severability.**

**Sec. 581.01. Short Title.**

This Chapter shall be known as and may be cited as the “Flood History Disclosure Law.”

**Sec. 581.11. Definitions.**

As used in this Chapter, unless the context otherwise indicates, the following terms have the following meanings:

1. “Flood” shall mean a general or temporary condition of partial or complete inundation of leased Premises caused by:
  - a. The overflow of inland or tidal waters;



- b. The unusual and rapid accumulation of runoff or surface waters from any established water source such as a river, stream or drainage ditch; or
- c. A ponding of water at or near the place where heavy or excessive rain fell.

2. “Flood Disclosure Form” shall mean a form which shall be completed by the property owner providing information regarding the Premises’ propensity for flooding.

3. “Flood Damage” shall mean all the varieties of harm resulting from a flood including all detrimental effects on people, their health and property.

4. “Premises” shall mean the portion of real property contained within a structure to which a tenant has the exclusive right to use or the authority to store non-real property within.

**Sec. 581.21. Required Conduct.**

1. When the owner of real property, either directly or through an agent, seeks to lease or rent that property, or any portion thereof, for residential or commercial occupancy, prior to entering a written agreement for the leasehold of that property, the owner shall, either directly or through an agent notify the prospective tenant of the propensity for flooding of the Premises contained on such property if such flooding has occurred to such owner’s knowledge, at least one time during the ten-year period immediately preceding the date of the lease and has caused flood damage to any portion of the leased Premises.

2. In the event a tenant sublets the property, the tenant shall be required to disclose information regarding the propensity for flooding of the Premises prior to entering an agreement for the sublease of that property, if such flooding has occurred to such Tenant's knowledge, at least one time during the ten-year period immediately preceding the date of the lease and has caused flood damage to any portion of the sublet Premises.

3. The owner of the property shall provide notification of the Premises' propensity for flooding pursuant to the parameters listed in subdivision "1" of this section, by provision of a "Flood Disclosure Form" to be signed by both the owner of the property and the tenant. The owner shall also provide notification of where the water line was estimated in the Premises.

4. The Westchester County Department of Weights and Measures, Consumer Protection shall provide such "Flood Disclosure Form" on its website or by hard copy when requested.

5. This Local Law shall only apply to leaseholds or sublets entered into on or after its effective date.

**Sec. 581.31. Civil Causes of Action.**

In the event of a landlord's non-compliance with subdivision "1" of Section 581.21 of this Chapter, a tenant that sustains flood damage during the course of his, her or their lease may commence an action in a court of competent jurisdiction for the recovery of such damages.

**Sec. 581.41. Joint and Several Liability.**

If it is found in any action brought pursuant to the provisions of this Chapter, that two (2) or more named defendants acted in concert pursuant to a common plan or design to violate any provision of this Chapter, such defendants shall each be held jointly and severally liable for any damages assessed or any costs and fees awarded.

**Sec. 581.51. Construction.**

No provision of this Chapter shall be construed or interpreted so as to limit the right of any person or entity to seek other available criminal penalties or civil remedies.


**Sec. 581.61. Severability.**

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§2. This Local Law shall take effect thirty (30) days after its adoption.

May 9, 2022

TO: Hon. Catherine Borgia, Chair  
Hon. Nancy Barr, Vice Chair  
Hon. Christopher Johnson, Majority Leader  
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer   
Westchester County Executive

RE: Message Requesting Immediate Consideration: **LOCAL LAW – Office of Housing Counsel.**

---

This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators May 9, 2022 Agenda.

Transmitted herewith for your review and approval is 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.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for May 9, 2022 “blue sheet” calendar.

Thank you for your prompt attention to this matter.



**George Latimer**  
**County Executive**

May 9, 2022

Westchester County Board of Legislators  
800 Michaelian Office Building  
148 Martine Avenue, 8<sup>th</sup> Floor  
White Plains, New York 10601

Dear Honorable Members of the Board:

I respectfully request that your Honorable Board adopt the attached Local Law amending the Laws of Westchester County by adding a new Chapter 187 relating to the creation of the Office of Housing Counsel.

According to the 2020 Annual Homeless Assessment Report (AHAR) to Congress by the U.S. Department of Housing and Urban Development, New York State has the highest rate of homelessness in the country, with 92,000 New Yorkers currently experiencing homelessness. Moreover, as stated in a 2016 report by Stout Risius Ross, a global advisory firm, a staggering 1.2 million households are behind on rent and landlords are actively trying to evict more than 236,000 tenants statewide. According to the New York City Right to Counsel Coalition, 220,000 evictions are pending in New York courts, including town, village, and justice courts.

Across the state an overwhelming majority of landlords are represented during eviction proceedings, whereas most tenants are not. Currently, low-income tenants in Westchester County do not have guaranteed access to legal counsel in eviction proceedings. Right to counsel, where legal counsel is provided at no cost to low income tenants, has proven to be very successful at preventing evictions and protecting tenants' rights, especially now, given the recently enacted complex tenant protection laws. *See, Chapter 127 of the Laws of New York, 2020, Safe Harbor Act; Chapter 417 of the Laws of New York, 2021.* According to the Westchester County Right to Counsel Coalition ("WCRTCC"), in normal years, when more than 10,000 eviction proceedings are filed in Westchester County Courts, 93% of landlords are represented by counsel, while only 7% of tenants have attorneys. Eviction judgments are made on average in about 4 minutes, and settlements are often reached in a court hallway, away from the judge. Without representation, tenants are often evicted on false premises of lease violations they didn't commit or excess rent that they do not legally owe.

In 2017, New York City became the first city in the country to pass right to counsel legislation. Since then, according to the New York City Office of Civil Justice 2020 Annual Report, landlords are suing tenants less and 86 percent of tenants who had a lawyer provided to them won their case and were able to remain in their homes. The Stout Risius Ross 2016 Report

also indicates that the seven cities that now have a right to counsel program including New York City, San Francisco, Newark, Cleveland, Philadelphia, Boulder and Baltimore, have seen up to a 77 percent reduction in evictions. Across the country, movements for statewide right to counsel are gaining traction. Washington State, Connecticut, Maryland recently passed right to counsel and Minnesota, Nebraska, and Delaware are not far behind. There is currently a bill pending in the New York State legislature to establish a right to counsel program in eviction proceedings within the state.

WCRTCC has indicated that eviction is a stigma which follows a family forever by cutting off access to safe, stable housing from reputable landlords and perpetuating the cycle of poverty for generations. Evictions make it harder to rent another apartment and cause psychological trauma especially for children who lose the security of believing their parents can provide a home. Eviction proceedings are complex processes that are nearly impossible to navigate alone. The Right to Counsel NYC Coalition reports that evictions disrupt children's education, tear apart entire communities, and have other traumatic consequences. Moreover, evictions disproportionately impact black and brown tenants, with women facing the greatest burdens. The WCRTCC further states that feasibility studies have routinely shown that programs providing attorneys at no cost to low-income tenants in eviction proceedings are significantly less expensive than expected, sometimes even saving the jurisdiction money. Studies have shown that right to counsel programs save public money that would be otherwise spent on shelter and emergency room costs and homeless services.

According to the WCRTCC, right to counsel programs reduce the number of eviction filings, which in turn reduces the strain on local courts. In addition, attorneys can help connect low-income tenants to financial assistance when necessary and help tenants raise defenses based on poor housing conditions. This ensures that financial assistance does not go towards delinquent landlords who do not maintain their properties, thereby reducing the financial assistance needed to keep tenants housed, and compelling necessary repair to help preserve the housing stock. Attorneys for tenants can ensure that landlords do not overcharge tenants by including illegal fees which reduce the financial assistance necessary to preserve a tenancy. Westchester County residents should have equal opportunities for safe and stable housing which a right to counsel program can provide.

This proposed legislation, if enacted, will establish an Office of Housing Counsel within the County Department of Social Services to be administered by a Director, responsible for provision of a right to counsel program in Westchester County. Six months after enactment of this proposed Local Law, the Director will be required to develop an implementation plan for establishment of a program to provide access to legal services for income-eligible individuals (a person whose household income is not in excess of 300 percent of the federal poverty guidelines), who are subject to eviction proceedings in city courts within the County or in administrative proceedings for tenants of buildings operated by public housing authorities located in cities within the County. Further, within thirty-six (36) months of enactment of this Local Law, the Director shall ensure access to legal services for income eligible individuals who are subject to eviction proceedings in town and village courts or in administrative proceedings in towns and villages within the County. The legal services will be provided to tenants at no cost by not-for-profit organizations or qualified professionals selected by the County pursuant to the

County procurement process. In addition, the Director will undertake community engagement and education to inform tenants of their right to legal counsel in eviction proceedings. Annual reports on the implementation of this program and efforts at community engagement and education will be required as well. As many Westchester residents are at risk of eviction, especially now in the aftermath of the pandemic, it is critical to establish a county-wide right to legal counsel program in Westchester to prevent evictions.

The proposed legislation does not meet the definition of an action under New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated January 14, 2022, which is on file with the Clerk of the Board of Legislators.

I respectfully request that your Honorable Board adopt the attached Local Law amending the Laws of Westchester County by adding a new Chapter 187 relating to the creation of the Office of Housing Counsel.

Sincerely,



GEORGE LATIMER  
County Executive

GL/nn  
Enclosure

TO: HONORABLE BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee recommends passage of “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.”

Your Committee is informed that according to the 2020 Annual Homeless Assessment Report (AHAR) to Congress by the U.S. Department of Housing and Urban Development, New York State has the highest rate of homelessness in the country, with 92,000 New Yorkers currently experiencing homelessness. Moreover, as stated in a 2016 report by Stout Risius Ross, a global advisory firm, a staggering 1.2 million households are behind on rent and landlords are actively trying to evict more than 236,000 tenants statewide. According to the Right to Counsel NYC Coalition, 220,000 evictions are pending in New York courts, including town, village, and justice courts.

Your Committee is further informed that across the state an overwhelming majority of landlords are represented during eviction proceedings, whereas most tenants are not. Currently, low-income tenants in Westchester County do not have guaranteed access to legal counsel in eviction proceedings. Right to counsel, where legal counsel is provided at no cost to low income tenants, has proven to be very successful at preventing evictions and protecting tenants’ rights, especially now, given the complicated recently enacted tenant protection laws. *See, Chapter 127 of the Laws of New York, 2020, Safe Harbor Act; Chapter 417 of the Laws of New York, 2021.* According to the Westchester County Right to Counsel Coalition (“WCRTCC”), in normal



years, when more than 10,000 eviction proceedings are filed in Westchester County Courts, 93% of landlords are represented by counsel, while only 7% of tenants have attorneys. Eviction judgments are made on average in about 4 minutes, and settlements are often reached in a court hallway, away from the judge. Without representation, tenants are often evicted on false premises of lease violations they didn't commit or excess rent that they do not legally owe.

Your Committee is advised that in 2017, New York City became the first city in the country to pass right to counsel legislation. Since then, as stated in the New York City Office of Civil Justice 2020 Annual Report, landlords are suing tenants less and 86 percent of tenants who had a lawyer provided to them won their case and were able to remain in their homes. The Stout Risius Ross 2016 Report also indicates that the seven cities that now have a right to counsel program including New York City, San Francisco, Newark, Cleveland, Philadelphia, Boulder and Baltimore, have seen up to a 77 percent reduction in evictions. Across the country, movements for statewide right to counsel are gaining traction. Washington State, Connecticut, Maryland recently passed right to counsel and Minnesota, Nebraska, and Delaware are not far behind. There is currently a bill pending in the New York State legislature to establish a right to counsel in eviction proceedings within the state.

Your Committee notes that the WCRTCC has indicated that an eviction is a stigma which follows a family forever by cutting off access to safe, stable housing from reputable landlords and perpetuating the cycle of poverty for generations. Evictions make it harder to rent another apartment and cause psychological trauma especially for children who lose the security

of believing their parents can provide a home. Eviction proceedings are complex processes that are nearly impossible to navigate alone. The Right to Counsel NYC Coalition reports that evictions disrupt children's education, tear apart entire communities, and have other traumatic consequences. Moreover, evictions disproportionately impact black and brown tenants, with women facing the greatest burdens. The WCRTCC further states that feasibility studies have routinely shown that programs providing attorneys at no cost to low-income tenants in eviction proceedings are significantly less expensive than expected, sometimes even saving the jurisdiction money. Studies have shown that right to counsel programs save public money that would be otherwise spent on shelter and emergency room costs and homeless services.

Your Committee advises that according to the WCRTCC, right to counsel programs reduce the number of eviction filings, which in turn reduces the strain on local courts. In addition, attorneys can help connect low-income tenants to financial assistance when necessary and help tenants raise defenses based on poor housing conditions. This ensures that financial assistance does not go towards delinquent landlords who do not maintain their properties, thereby reducing the financial assistance needed to keep tenants housed, and compelling necessary repair to help preserve the housing stock. Attorneys for tenants can ensure that landlords do not overcharge tenants by including illegal fees which reduce the financial assistance necessary to preserve a tenancy. All Westchester County residents should have equal opportunities for safe and stable housing which a right to counsel program can provide.

Your Committee is advised, that this proposed legislation, if enacted, will establish an Office of Housing Counsel within the County Department of Social Services to be administered by a Director, responsible for provision of a right to counsel program in Westchester County. Six months after enactment of this proposed Local Law, the Director will be required to develop an implementation plan for establishment of a program to provide access to legal services for income-eligible individuals (a person whose household income is not in excess of 300 percent of the federal poverty guidelines), who are subject to eviction proceedings in city courts within the County or in administrative proceedings for tenants of buildings operated by public housing authorities located in cities within the County. Further, within thirty-six (36) months of enactment of this Local Law, the Director shall ensure access to legal services for income eligible individuals who are subject to eviction proceedings in town and village courts or in administrative proceedings in towns and villages within the County. The legal services will be provided to tenants at no cost by not-for-profit organizations or qualified professionals selected by the County pursuant to the County procurement process. In addition, the Director will undertake community engagement and education to inform tenants of their right to legal counsel in eviction proceedings. Annual reports on the implementation of this program and efforts at community engagement and education will be required as well. As many Westchester residents are at risk of eviction, especially now in the aftermath of the pandemic, it is critical to establish a county-wide right to legal counsel program in Westchester to prevent evictions.

Your Committee is informed that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the

Department of Planning, dated January 14, 2021, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee, after careful consideration, recommends adoption of this Local Law.

Dated: \_\_\_\_\_, 2022  
White Plains, New York

COMMITTEE ON

Sdk-5-5-22

**RESOLUTION NO. \_\_\_\_ – 2022**

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. \_\_\_\_ - 2022, entitled “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.” The public hearing will be held at \_\_.m. on the \_\_\_\_ day of \_\_\_\_\_, 2022 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

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 31<sup>st</sup> 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.