



House of Representatives

General Assembly

File No. 172

January Session, 2021

Substitute House Bill No. 6531

House of Representatives, March 29, 2021

The Committee on Housing reported through REP. MCGEE of the 5th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE RIGHT TO COUNSEL IN EVICTION PROCEEDINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2021*) (a) As used in this section:

2 (1) "Covered individual" means any party to a covered matter who is
3 an income-eligible tenant, lessee or occupant, for residential purposes,
4 of any land or building, any apartment in any building, any dwelling
5 unit, any trailer or mobile manufactured home or any land upon which
6 a trailer or mobile manufactured home is used or stands;

7 (2) "Covered matter" means any notice to quit delivered to, or any
8 summary process action instituted against, a covered individual
9 pursuant to chapter 832 or chapter 412 of the general statutes or any
10 administrative proceeding against a covered individual necessary to
11 preserve a state or federal housing subsidy or to prevent a proposed
12 termination of the lease;

13 (3) "Designated organization" means any not-for-profit legal services
14 organization that provides legal representation in a covered matter to a
15 covered individual;

16 (4) "Administering entity" means the organization administering the
17 program for the use of interest earned on lawyers' clients' funds
18 accounts pursuant to section 51-81c of the general statutes, for the
19 purpose of funding the delivery of legal services to the poor;

20 (5) "Legal representation" means high-quality legal representation in
21 a covered matter provided by a designated organization to a covered
22 individual, and all legal advice, advocacy and assistance associated with
23 such representation, subject to and in accordance with the Rules of
24 Professional Conduct;

25 (6) "Income-eligible" means (A) having household income at or below
26 eighty per cent of the state median income adjusted for family size, as
27 determined by the United States Department of Housing and Urban
28 Development, at the time of the request for representation; (B) receiving
29 one of the following types of public assistance: (i) Temporary Assistance
30 for Needy Families, (ii) Supplemental Nutrition Assistance Program
31 benefits, (iii) Medicaid, (iv) Supplemental Security Income, (v) refugee
32 resettlement benefits, (vi) rental assistance under chapter 138a of the
33 general statutes, or (vii) the federal Housing Choice Voucher Program,
34 42 USC 1437f(o); or (C) being unable to secure legal representation with
35 respect to a covered matter in a timely manner by reason of language,
36 disability or other good cause, as determined by the designated
37 organization;

38 (7) "Tenant", "landlord", "owner" and "dwelling unit" have the same
39 meanings as provided in section 47a-1 of the general statutes;

40 (8) "Notice to quit" means any notice to quit possession or occupancy
41 delivered pursuant to chapter 832 or chapter 412 of the general statutes
42 to a lessee or occupant;

43 (9) "Lessee or occupant" means any tenant, lessee or occupant, for

44 residential purposes, of any land or building, apartment in any building,
45 dwelling unit, trailer or mobile manufactured home, or land upon
46 which a trailer or mobile manufactured home is used or stands;

47 (10) "Extremely low-income household" means a household whose
48 income does not exceed thirty per cent of the state median income, as
49 adjusted for the size of the household, as determined by the United
50 States Department of Housing and Urban Development;

51 (11) "Right to counsel program" means the state-wide right to counsel
52 program to provide legal representation to a covered individual in a
53 covered matter established under this section.

54 (b) There is established a right to counsel program, which shall be
55 administered by the administering entity for the purpose of providing
56 any covered individual with legal representation at no cost in a covered
57 matter. The administering entity, within the funding available to it for
58 the right to counsel program, shall contract with designated
59 organizations to provide legal representation under this section. A
60 designated organization may subcontract with a nonprofit or
61 community organization to provide legal representation to a covered
62 individual, and to provide tenant outreach and education. A designated
63 organization shall, at a minimum: (1) Have substantial expertise in
64 housing law and landlord tenant law and substantial experience
65 furnishing free legal assistance to eligible individuals; (2) have a
66 demonstrated history of serving the low-income community; (3)
67 identify the geographic area in which such organization provides legal
68 representation; (4) have a plan to reach and provide legal representation
69 to income-eligible persons with limited English proficiency; (5) provide
70 appropriate supervision and training; and (6) incorporate paralegals,
71 legal interns or law students, as appropriate, to provide services when
72 supervised by legal counsel.

73 (c) The administering entity may receive funds or services from the
74 state or federal government, corporations, associations or individuals to
75 pay the cost of: (1) Providing legal representation to covered individuals
76 in covered matters; (2) administering the right to counsel program for

77 the administering entity and designated organizations; (3) providing
78 tenant outreach and education; and (4) attorney training.

79 (d) (1) The administering entity shall appoint an advisory committee
80 consisting of fifteen members, from diverse regions of the state,
81 including, but not limited to, income-eligible tenants, community-based
82 organizations engaged in tenant outreach, education or organizing, and
83 nonprofit organizations providing free legal services to tenants. Each
84 member shall have a demonstrated commitment to eviction prevention
85 and housing stability. At least three members shall be tenants. At least
86 one member shall be a tenant who is a member of an extremely low-
87 income household.

88 (2) The administering entity shall convene the advisory committee on
89 a regular basis, but not less than three times per year, to advise on
90 matters and policies affecting the right to counsel program, to effectuate
91 the right to counsel.

92 (e) (1) The administering entity, in consultation with the advisory
93 committee and designated organizations, shall approve a plain-
94 language notice to inform a tenant of the rights under the right to
95 counsel program. Such notice shall be made broadly available to the
96 public and shall include a phone number for accessing information and
97 applying for assistance.

98 (2) An owner, lessor, landlord, legal representative or agent of an
99 owner, lessor or landlord, a housing authority or a housing subsidy
100 program administrator, as applicable, shall attach a copy of the notice
101 described under subdivision (1) of this subsection, to (A) a notice to quit
102 delivered to a covered individual pursuant to chapter 832 or chapter 412
103 of the general statutes; (B) a summons and complaint for a summary
104 process action pursuant to chapter 832 or chapter 412 of the general
105 statutes; (C) a lease termination notice for a public or subsidized
106 housing unit; and (D) a notice to terminate a state or federal housing
107 subsidy.

108 (3) Any court notice scheduling a mediation or hearing that is sent to

109 a self-represented party in a covered matter shall include plain language
110 information about the availability of legal representation through the
111 right to counsel program and a phone number for accessing information
112 and applying for assistance.

113 (f) The administering entity, in consultation with the advisory
114 committee and designated organizations, shall determine how to phase
115 in the provision of legal representation to covered individuals in
116 covered matters under the right to counsel program based on all
117 relevant factors, including, but not limited to: (1) The prioritization of
118 certain groups of individuals by income, zip codes, census tracts or
119 other priority criteria developed in consultation with the designated
120 organizations and the advisory committee; (2) the availability of
121 program funding; (3) the number of trained legal services attorneys
122 available to provide legal representation; and (4) the scope of the need
123 for legal representation.

124 (g) Nothing in this section shall be construed to establish any right
125 enforceable by a covered individual against a designated organization
126 or the administering entity.

127 (h) Not later than January 1, 2023, and annually thereafter, the
128 administering entity shall submit a report, in accordance with the
129 provisions of section 11-4a of the general statutes, to the joint standing
130 committee of the General Assembly having cognizance of matters
131 relating to housing. Such report shall include the following information:
132 (1) The number of covered individuals provided legal representation
133 pursuant to this section; (2) the extent of legal representation provided;
134 (3) any outcomes achieved, such as the rates of tenant representation,
135 tenant retention of housing or other appropriate outcome measures; and
136 (4) the engagement and education of tenants.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	New section

HSG *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill establishes a right to counsel in eviction proceedings, to be administered by the Connecticut Bar Foundation (CBF), and does not result in a fiscal impact to the state or municipalities.

The bill requires CBF to contract with not-for-profit legal services organizations to provide legal representation. The CBF receives a grant from the state through a Judicial Department pass-through account (FY 21 amount is \$1,397,144). The remaining funds for the CBF comes from the interest on lawyers' trust accounts (IOLTA). In calendar year 2019, the total CBF expenses related to legal services was \$18,034,030. Both the General Fund appropriation and IOLTA funds are not changed in this bill.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6531*****AN ACT CONCERNING THE RIGHT TO COUNSEL IN EVICTION PROCEEDINGS.*****SUMMARY**

This bill establishes a state-wide “right to counsel program,” to provide free legal representation to income-eligible tenants, lessees, or occupants of any residential building or land (i.e., “covered individuals”) in an eviction proceeding or administrative proceeding necessary to preserve a state or federal housing subsidy or to prevent a proposed lease termination (i.e., covered matter”).

Under the bill, the right to counsel program must be administered by the organization that administers the program under existing law that funds legal services to the poor using interest earned on lawyers’ clients’ funds accounts (i.e., “administering entity”).

The bill requires the administering entity, within available funding, to contract with designated organizations (i.e., not-for-profit legal services organizations) to provide legal representation under the program. Additionally, it requires the administering entity to:

1. appoint a 15-member advisory committee to advise on matters affecting the program;
2. in consultation with the advisory committee and designated organizations, (a) determine how to phase in the program based on certain relevant factors and (b) approve a plain-language notice for landlords and certain others to inform individuals of their rights under the program; and
3. starting by January 1, 2023, annually report to the Housing Committee on the number of individuals represented under the

program, the extent of the representation, case outcomes, and tenant engagement and education.

The bill also specifies that it does not establish any right enforceable by a covered individual against a designated organization or the administering entity.

EFFECTIVE DATE: October 1, 2021

RIGHT TO COUNSEL PROGRAM

Program Eligibility

Under the bill, the right to counsel program is available to income-eligible residential tenants, lessees, or occupants who are parties in an eviction or certain administrative proceedings as described above. The bill specifies that it applies to any residential land or building, apartment, or dwelling unit, including trailers or mobile manufactured homes and associated lots.

Under the bill, an individual is “income-eligible” if he or she:

1. has household income at or below 80% of the state median income adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (HUD), at the time of the request for representation;
2. receives one of the following types of public assistance: (a) Temporary Assistance for Needy Families, (b) Supplemental Nutrition Assistance Program benefits, (c) Medicaid, (d) Supplemental Security Income, (e) refugee resettlement benefits, (f) state rental assistance program, or (g) federal Housing Choice Voucher Program; or
3. is unable to timely secure legal representation for a covered matter because of language, disability, or other good cause, as determined by the designated organization.

Designated Organization’s Minimum Standards

The administering entity, within available funding, must contract

with designated organizations to provide legal representation under the program. Under the bill “legal representation” in the program means high-quality legal representation and all legal advice, advocacy, and assistance associated with the representation, subject to and in accordance with the Rules of Professional Conduct.

A designated organization must:

1. have substantial expertise in (a) housing and landlord tenant law and (b) furnishing free legal assistance to eligible individuals;
2. have a demonstrated history of serving the low-income community;
3. identify the geographic area in which the organization provides legal representation;
4. have a plan to reach and provide legal representation to income-eligible individuals with limited English proficiency;
5. incorporate paralegals, legal interns, or law students, as appropriate, to provide services when supervised by legal counsel; and
6. provide appropriate supervision and training.

A designated organization may subcontract with a nonprofit or community organization to provide legal representation and tenant outreach and education under the program.

Advisory Committee

Under the bill, the administering entity must appoint a 15-member advisory committee, which it must convene at least three times per year to advise on matters and policies affecting the program. At least three committee members must be tenants, including at least one tenant who is a member of an “extremely low-income household” (i.e., household income does not exceed 30% of the state median income, as adjusted for household size, as determined by HUD).

The advisory committee members must be from diverse regions of the state, including income-eligible tenants; community-based organizations engaged in tenant outreach, education, or organizing; and nonprofit organizations providing free legal services to tenants. Each member must have a demonstrated commitment to eviction prevention and housing stability.

Relevant Factors to Phase in The Program

The bill requires the administering entity, in consultation with the advisory committee and designated organizations, to determine how to phase in the program based on all relevant factors, including the:

1. prioritization of certain groups of individuals by income, zip codes, census tracts, or other priority criteria they develop;
2. availability of program funding;
3. number of available trained legal services attorneys; and
4. scope of the need for legal representation.

Funding

The bill allows the administering entity to receive funds or services from the government, corporations, associations, or individuals to pay the cost of: (1) administering the program and (2) providing legal representation, tenant outreach and education, and attorney training.

PLAIN-LANGUAGE NOTICE OF TENANTS' RIGHTS

In consultation with the advisory committee and designated organizations, the administering entity must approve a plain-language notice to inform tenants of their rights under the program. The notice must be available to the public and include a phone number for information and applying for assistance.

The bill requires an owner, lessor, or landlord; their agent or legal representative; a housing authority; or a housing subsidy program administrator, as applicable, to attach a copy of the plain-language notice to a (1) notice to quit delivered to a covered individual pursuant

to an eviction proceeding, (2) summons and complaint for a summary process eviction action, (3) lease termination notice for a public or subsidized housing unit, and (4) notice to terminate a state or federal housing subsidy.

Under the bill, the court must include similar plain language information in any notice scheduling a mediation or hearing that is sent to a self-represented party in an eviction proceeding.

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 10 Nay 5 (03/11/2021)