CITY OF BALTIMORE ORDINANCE Council Bill 20-0625

Introduced by: President Scott, Councilmembers Clarke, Henry, Bullock, Dorsey, Pinkett, Reisinger, Cohen, Stokes Introduced and read first time: October 5, 2020 <u>Assigned to: Housing and Urban Affairs Committee</u> Committee Report: Favorable with amendments Council action: Adopted Read second time: November 16, 2020

AN ORDINANCE CONCERNING

Landlord-Tenant – Right to Counsel in Eviction Cases

2 FOR the purpose of establishing a mechanism to provide to counsel for individuals in certain matters involving eviction; providing that the Commissioner of the Department of Housing 3 and Community Development oversee the provision of counsel for individuals in certain 4 5 matters involving eviction in Baltimore City; setting forth certain additional duties of the 6 Commissioner of the Department of Housing and Community Development and the Affordable Housing Trust Fund Commission; providing for an additional member of the 7 8 Affordable Housing Trust Fund Commission as permitted by the City Charter; defining certain terms: requiring an annual report to the Mayor and City Council regarding certain 9 metrics; providing for the severability of certain provisions; requiring licensed landlords to 10 disclose to their tenants certain information regarding the right to counsel in eviction matters; 11 and providing for a special effective date. 12

13 BY adding

1

- 14 Article 13 Housing and Urban Renewal
- 15 Section(s) 6A-1 through 6A-6, to be under the new subtitle,
- 16 "Tenant's Right to Counsel in Eviction Cases"
- 17 Baltimore City Code
- 18 (Edition 2000)
- 19 By repealing and re-ordaining, with amendments
- 20 Article 13 Housing and Urban Renewal
- 21 Section 7-3
- 22 Baltimore City Code
- 23 (Edition 2000)
- 24

Recitals

- 25 Whereas, approximately 140,000 eviction cases are filed each year in a City with only
- 26 125,000 renter households yielding an eviction filing rate of over 100% for Baltimore City
- 27 renters;

EXPLANATION: CAPITALS indicate matter added to existing law. [Brackets] indicate matter deleted from existing law.

Underlining indicates matter added to the bill by amendment.

Strike out indicates matter stricken from the bill by

amendment or deleted from existing law by amendment.

Whereas, evictions exacerbate the public health crisis posed by COVID-19 and create
 significant costs for state and local government related to shelter funding, education funding,
 health care provided in hospitals instead of community-based providers, transportation costs for
 homeless youth, and foster care;

- 5 **Whereas**, 99% of tenants in eviction proceedings are unrepresented and 96% of landlords are 6 represented in Baltimore City eviction proceedings;
- Whereas, the number of Black households evicted is 195% greater than the number of white
 households evicted in Baltimore City;
- Whereas, the number of Black female-headed household evictions is 3.9 times higher (296% more) than the number of white male-headed household evictions in Baltimore City;
- 11 **Whereas**, the Mayor and City Council of Baltimore seek to end the disparate impact of 12 evictions based on race and gender;
- Whereas, providing a right to counsel to tenants in eviction cases is a proven means of preventing the disruptive displacement of families and the resulting social, economic, and public health costs of such displacement; and
- 16 **Whereas**, tenants must be able to invoke and enforce the right to legal representation in any 17 eviction-related proceeding to provide for equal access to justice and the courts.

Whereas, it is the policy of the City of Baltimore that tenants facing an eviction from their homes shall have a right to legal representation in eviction proceeding, and the City shall provide that representation to tenants to assist in the fair administration of justice.

- SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the
 Laws of Baltimore City read as follows:
- **Baltimore City Code** 23 Article 13. Housing and Urban Renewal 24 25 SUBTITLE 6A. TENANT'S RIGHT TO COUNSEL IN EVICTION CASES § 6A-1. DEFINITIONS. 26 27 (A) IN GENERAL. 28 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS SPECIFIED. (B) COMMISSION. 29 "COMMISSION" MEANS THE BALTIMORE CITY AFFORDABLE HOUSING TRUST FUND 30
- 31 COMMISSION ESTABLISHED BY ARTICLE I, § 14 OF THE CITY CHARTER.

1 (C) COMMISSIONER. 2 "COMMISSIONER" MEANS COMMISSIONER OF THE DEPARTMENT OF HOUSING AND 3 COMMUNITY DEVELOPMENT OR THE COMMISSIONER'S DESIGNEE. (D) COVERED INDIVIDUAL. 4 5 (1) IN GENERAL. "COVERED INDIVIDUAL" MEANS ANY INDIVIDUAL WHO OCCUPIES A DWELLING WITHIN 6 7 THE CITY OF BALTIMORE UNDER A CLAIM OF LEGAL RIGHT OTHER THAN THE OWNER. 8 (2) INCLUSION. 9 "COVERED INDIVIDUAL" INCLUDES ANY TENANT IN A BUILDING OWNED, OPERATED, OR MANAGED BY THE HOUSING AUTHORITY OF BALTIMORE CITY. 10 11 (E) COVERED PROCEEDING. 12 (1) IN GENERAL. "COVERED PROCEEDING" MEANS: 13 14 (I) ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING TO EVICT OR TERMINATE THE TENANCY OR HOUSING SUBSIDY OF A COVERED INDIVIDUAL; 15 16 (II) ANY PROCEEDING DEEMED BY A DESIGNATED ORGANIZATION AS THAT IS THE FUNCTIONAL EQUIVALENT OF A PROCEEDING DESCRIBED IN SUBPARAGRAPH (I); 17 18 OR 19 (III) ANY FIRST APPEAL OF SUCH A PROCEEDING WHERE THE DESIGNATED 20 ORGANIZATION DETERMINES THAT THERE ARE GOOD GROUNDS FOR AN APPEAL 21 DESCRIBED IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH. 22 (2) INCLUSIONS. 23 "COVERED PROCEEDING" INCLUDES ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING 24 TO REMEDY A VIOLATION OF: (I) CITY PUBLIC LOCAL LAWS § 9-9 {"RENT ESCROW LAW: IN GENERAL"}; 25 (II) CITY PUBLIC LOCAL LAWS § 9-9A {"RENT ESCROW LAW: LANDLORD'S 26 NON-COMPLIANCE WITH LEASE"}; 27 (III) CITY PUBLIC LOCAL LAWS § 9-10 {"RENT ESCROW LAW: RETALIATORY 28 ACTIONS"}; 29 (IV) STATE REAL PROPERTY ARTICLE § 8-208.1 {"RETALIATORY ACTIONS DUE TO 30 REPORTING VIOLATIONS OR COMPLAINTS PROHIBITED"}; AND 31

1	(i) C_{T} T D_{T}
1	(V) STATE REAL PROPERTY ARTICLE § 8-216 {"RESTRICTIONS RELATING TO
2	TAKING OR THREATENING TO TAKE POSSESSION OF DWELLING UNIT"}.
2	
3	(F) DESIGNATED ORGANIZATION.
4	"DESIGNATED ORGANIZATION" MEANS ANY NOT-FOR-PROFIT ORGANIZATION OR
5	ASSOCIATION THAT IS DESIGNATED BY THE DIRECTOR COMMISSIONER UNDER THIS
6	SUBTITLE AND ENGAGED PURSUANT TO ARTICLE VI, § 11 OF THE CITY CHARTER
7	<u>REGARDING PROCUREMENT</u> THAT:
8	(1) HAS THE CAPACITY TO PROVIDE LEGAL REPRESENTATION TO COVERED
9	INDIVIDUALS FACING EVICTION; AND
9	INDIVIDUALS FACING EVICTION, AND
10	(2) AGREES TO ADHERE TO THE STANDARDS OF PRACTICE ESTABLISHED IN RULES AND
11	REGULATIONS ADOPTED UNDER THIS SUBTITLE.
11	REGULATIONS ADOLTED ONDER THIS SUBTILE.
12	(G) DESIGNATED COMMUNITY GROUP.
13	"DESIGNATED COMMUNITY GROUP" MEANS A NOT-FOR-PROFIT COMMUNITY
14	ORGANIZATION OR ASSOCIATION DESIGNATED BY THE COMMISSIONER THAT HAS THE
15	CAPACITY TO CONDUCT TENANT OUTREACH, ENGAGEMENT, EDUCATION, AND
16	INFORMATION REGARDING THIS SUBTITLE.
10	
17	(H) INCLUDES; INCLUDING.
18	"INCLUDES" OR "INCLUDING" MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
19	LIMITATION.
19	LIMITATION.
20	(I) LEGAL REPRESENTATION.
21	(1) IN GENERAL.
22	"LEGAL REPRESENTATION" MEANS ONGOING LEGAL REPRESENTATION PROVIDED BY A
23	DESIGNATED ORGANIZATION TO A COVERED INDIVIDUAL AND ALL LEGAL ADVICE,
24	ADVOCACY, AND ASSISTANCE ASSOCIATED WITH THAT REPRESENTATION.
25	(2) INCLUSIONS
25	(2) INCLUSIONS.
26	"LEGAL REPRESENTATION" INCLUDES THE FILING OF A NOTICE OF APPEARANCE ON
20	BEHALF OF THE COVERED INDIVIDUAL IN A COVERED PROCEEDING.
21	BEHALF OF THE COVERED INDIVIDUAL IN A COVERED I ROCEEDING.
28	§ 6A-2. Rules and regulations.
29	(A) IN GENERAL.
49	
30	THE COMMISSIONER, WITH THE ADVICE AND CONSULTATION OF THE COMMISSION, SHALL
31	ADOPT RULES AND REGULATIONS TO CARRY OUT THIS SUBTITLE, INCLUDING PROVIDING
32	TENANT EDUCATION REGARDING THEIR RIGHTS UNDER THIS SUBTITLE.

32 TENANT EDUCATION REGARDING THEIR RIGHTS UNDER THIS SUBTITLE.

- 1 (B) FILING WITH LEGISLATIVE REFERENCE.
- A COPY OF ALL RULES AND REGULATIONS SHALL BE FILED WITH THE DEPARTMENT OF
 LEGISLATIVE REFERENCE PRIOR TO TAKING EFFECT.

4 § 6A-3. RIGHT TO COUNSEL IN EVICTION-RELATED PROCEEDINGS.

- 5 (A) IN GENERAL.
- 6 (1) SUBJECT TO PROVISIONS OF THIS SUBTITLE INCLUDING ANY RULES AND REGULATIONS
 7 AND WITH THE ADVICE AND CONSULTATION OF THE COMMISSION, THE COMMISSIONER
 8 SHALL ENSURE THAT ALL COVERED INDIVIDUALS RECEIVE ARE OFFERED LEGAL
 9 REPRESENTATION FROM A DESIGNATED ORGANIZATION IN A COVERED PROCEEDING AS
 10 SOON AS PRACTICABLE AFTER THE INITIATION OF THAT PROCEEDING, BUT NO LATER
 11 THAN AT THE TIME OF THE COVERED INDIVIDUAL'S FIRST SCHEDULED APPEARANCE IN
 12 A COVERED PROCEEDING IF POSSIBLE.
- 13 (2) THE COMMISSIONER SHALL SEEK TO PRIORITIZE THE PROVISION OF LEGAL
 14 REPRESENTATION BASED ON MEDIAN INCOME WITH COVERED INDIVIDUALS HAVING
 15 THE LOWEST MEDIAN INCOME RECEIVING THE HIGHEST PRIORITY.
- 16 (B) *LIMITATION*.
- 17 COVERED INDIVIDUALS SHALL RECEIVE LEGAL REPRESENTATION UNLESS CIRCUMSTANCES
 18 SPECIFIC TO THE INDIVIDUAL OR CASE, SUCH AS A CONFLICT WITH THE MARYLAND
 19 ATTORNEYS' RULES OF PROFESSIONAL CONDUCT, MAKE LEGAL REPRESENTATION
 20 INFEASIBLE TO RENDER AS DETERMINED BY A DESIGNATED ORGANIZATION.
- 21 (C) ENGAGEMENT AND EDUCATION.
- IN SUBJECT TO ARTICLE VI, § 11 OF THE CITY CHARTER REGARDING PROCUREMENT, IN
 ADDITION TO OVERSEEING THE ADMINISTRATION OF THIS SUBTITLE, THE COMMISSIONER,
 WITH THE ADVICE AND CONSULTATION OF THE COMMISSION, SHALL MAY ENGAGE
 DESIGNATED COMMUNITY GROUPS TO ENGAGE AND EDUCATE TENANTS ABOUT THEIR
 RIGHTS, INCLUDING THROUGH ACTIVITIES SUCH AS:
- 27 (1) HOSTING KNOW-YOUR-RIGHTS TRAININGS AND OTHER WORKSHOPS FOR TENANTS;
- 28 (2) DISTRIBUTING WRITTEN INFORMATION TO TENANTS;
- 29 (3) ASSISTING TENANTS TO FORM AND MAINTAIN TENANT ASSOCIATIONS;
- 30 (4) REFERRING TENANTS TO DESIGNATED COMMUNITY GROUPS; AND
- 31 (5) ENGAGING IN ANY OTHER ACTIVITY DESIGNED TO ENGAGE, EDUCATE OR INFORM
 32 TENANTS ABOUT THEIR RIGHTS.

- 1 (D) AVAILABILITY OF FUNDS.
- LEGAL REPRESENTATION UNDER THIS SECTION IS SUBJECT TO THE APPROPRIATION OF
 FUNDS IN ACCORDANCE WITH THE CITY CHARTER.

4 § 6A-4. ADDITIONAL COMMISSION MEMBER.

- $5 \qquad (A) IN GENERAL.$
- IN ADDITION TO THOSE COMMISSION MEMBERS SPECIFIED IN ARTICLE I, § 14(D)(2) OF THE
 CITY CHARTER, THE MAYOR SHALL APPOINT AN ADDITIONAL COMMISSIONER IN
 ACCORDANCE WITH ARTICLE IV, § 6 OF THE CITY CHARTER.
- 9 (B) QUALIFICATIONS.
- 10 (1) "EXTREMELY LOW-INCOME HOUSEHOLD" DEFINED.

IN THIS SUBSECTION, "EXTREMELY-LOW INCOME HOUSEHOLD" MEANS A HOUSEHOLD WHOSE AGGREGATE GROSS INCOME DOES NOT EXCEED 30% OF THE AREA MEDIAN INCOME, AS ADJUSTED FOR THE SIZE OF THE HOUSEHOLD.

- 14 (2) *IN GENERAL*.
- 15 THE COMMISSION MEMBER APPOINTED UNDER THIS SECTION SHALL BE:
- 16 (1) A TENANT RESIDING IN BALTIMORE CITY; AND
- 17 (2) A MEMBER OF AN EXTREMELY LOW-INCOME HOUSEHOLD.

18 **§ 6A-5. ANNUAL REPORT.**

 $19 \qquad (A) IN GENERAL.$

NO LATER THAN AUGUST 31 NOVEMBER 1 OF EACH YEAR, THE COMMISSIONER, WITH THE ADVICE AND CONSULTATION OF THE COMMISSION, SHALL SUBMIT A REPORT TO THE MAYOR AND CITY COUNCIL, WHICH SHALL INCLUDE INFORMATION FROM THE PRIOR FISCAL YEAR REGARDING:

- 24 (1) THE NUMBER OF COVERED INDIVIDUALS SERVED;
- 25 (2) THE EXTENT OF LEGAL REPRESENTATION PERFORMED;
- 26 (3) METRICS ON EVALUATING OUTCOMES; AND
- 27 (4) THE ENGAGEMENT AND EDUCATION OF TENANTS.
- 28 (B) POSTING.
- THE COMMISSIONER SHALL PROMINENTLY POST THE REPORT REQUIRED BY THIS SECTION
 ON THE CITY'S WEBSITE.

1 (C) HEARING.

NO LATER THAN SEPTEMBER 30 DECEMBER 1 OF EACH YEAR, THE CITY COUNCIL OR AN
 APPROPRIATE COMMITTEE OF THE CITY COUNCIL SHALL CONDUCT A HEARING ON THE
 REPORT REQUIRED BY THIS SECTION.

5 § 6A-6. SEVERABILITY.

ALL PROVISIONS OF THIS SUBTITLE ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD,
PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS
INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR
CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE
PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

- 11 Subtitle 7. Residential Lease Requirements 12 § 7-3. Information required. 13 (a) In general. (1) Each residential lease must contain the following information: 14 15 (i) the name, residence address, and residence telephone number or the name, business address, and business telephone number of the owner of the property, 16 17 or 18 (ii) the name, residence address, and residence telephone number or the name, business address, and business telephone number of an agent of the owner 19 who is authorized to receive court process on behalf of the owner in 20 21 connection with the property.
- (2) Any owner who is not customarily present in an office in the metropolitan Baltimore
 area must include in the lease the information required above for an agent authorized
 to receive court process on behalf of the owner.
- 25 (a-1) Payment for water and wastewater services.
- (1) Any property owner or managing operator who requires that a tenant pay the costs of
 water or wastewater services, whether directly to the Department of Public Works or
 as reimbursement to the owner or managing operator, shall include that requirement
 in an express provision of a written lease.
- (2) The lease shall include a provision that the landlord makes the tenant a designee
 under Maryland's Public Information Act to request and to receive copies of any
 account records for the water or wastewater account at issue.
- 33 (3) Whenever a landlord requires the tenant to reimburse the landlord for allocated costs
 34 of water or wastewater service, the lease required by this subsection shall also:

1 2	(i) describe the calculation method used by the owner or owner's agent to allocate the cost of water and wastewater services to the tenant; and
3 4 5	(ii) specify the average monthly allocated costs of water and wastewater services for the leased dwelling unit or rooming unit in the 12 months preceding execution of the lease or renewal of the lease.
6	(b) Changes.
7 8 9	 Within 10 days of a change in any information required by subsection (a) of this section to be contained in a lease, the property owner must notify the tenant of the change.
10	(2) The notice must be sent to the tenant by first class mail.
11	(c) Additional required disclosures.
12 13 14	(1) Along with the copy of the lease required to be given to the tenant by § 7-2 of this subtitle, the tenant must be given a copy of a tenants rights brochure approved by the Housing Commissioner that discusses:
15 16 17	 (i) free or reduced price legal representation available to tenants, INCLUDING ANY RIGHT TO REPRESENTATION PURSUANT TO SUBTITLE 6A {"TENANT'S RIGHT TO COUNSEL IN EVICTION CASES"} OF THIS ARTICLE;
18 19	(ii) pre-trial and day of trial mediation programs available to resolve landlord- tenant disputes; and
20	(iii) a tenant's right to know the amount of rent that is in arrears.
21 22	(2) A tenant must also be given a copy of the brochure required by paragraph (1) of this subsection:
23 24	(i) at the time that a lawsuit is commenced by the owner or landlord against the tenant; [and]
25 26 27 28 29	(ii) if the Baltimore City Sheriff's Office is used to serve a [summary ejectment notice] SUMMONS AND COMPLAINT BY THE LANDLORD SEEKING EVICTION, INCLUDING FOR SUMMARY EJECTMENT, TENANT HOLDING OVER, AND BREACH OF LEASE, at the time that [notice is sent to] THE SUMMONS AND COMPLAINT ARE SERVED ON the tenant; AND
30 31	(III) AT THE TIME THAT THE HOUSING AUTHORITY OF BALTIMORE CITY SENDS A NOTICE TO TERMINATE A TENANT'S SUBSIDY OR TENANCY.
32 33 34	SECTION 2. AND BE IT FURTHER ORDAINED , That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

1	SECTION 3. AND BE IT FURTHER ORDAINED, That:
2 3 4 5 6	 (a) Legal representation to all covered individuals in all covered proceedings, as set forth in this Ordinance, shall be phased-in during a period of time not to exceed 4 years, in a manner that the Commissioner, with the advice and consultation of the Commission determines appropriate based on all relevant factors, including those factors specified in subsection (b) of this Section.
7 8	(b) Factors that the Commissioner and the Commission shall consider when phasing-in legal representation to covered individuals include:
9	(1) the prioritization of individuals over the phase-in period;
10 11	(2) the availability of funding from the City, State, and other sources as the case may be;
12 13	(3) the availability of trained and qualified attorneys to provide legal representation;
14	(4) the scope of the need for legal representation; and
15	(5) any other appropriate logistical consideration.
16 17	SECTION 4. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the $\frac{120^{\text{th}}}{\text{day after}}$ it is enacted.

Certified as duly passed this _____ day of _____, 20____

President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this _____ day of _____, 20____

Chief Clerk

Approved this _____ day of _____, 20____

Mayor, Baltimore City