



Legislation Details (With Text)

File #: 20-0625 **Version:** 0 **Name:** Landlord-Tenant - Right to Counsel in Eviction Cases

Type: Ordinance **Status:** Enacted

File created: 10/5/2020 **In control:** City Council

On agenda: **Final action:** 12/2/2020

Enactment date: **Enactment #:** 20-465

Title: Landlord-Tenant - Right to Counsel in Eviction Cases
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 and Community Development oversee the provision of counsel for individuals in certain matters involving eviction in Baltimore City; setting forth certain additional duties of the Commissioner of the Department of Housing and Community Development and the Affordable Housing Trust Fund Commission; providing for an additional member of the 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 metrics; providing for the severability of certain provisions; requiring licensed landlords to disclose to their tenants certain information regarding the right to counsel in eviction matters.

Sponsors: Mayor Brandon M. Scott, Mary Pat Clarke, Bill Henry, John T. Bullock, Ryan Dorsey, Leon F. Pinkett, III, Edward Reisinger, Zeke Cohen, Robert Stokes, Sr., Sharon Green Middleton

Indexes: Councils, Landlord, Rights, Tenant

Code sections:

Attachments: 1. 20-0625~1st Reader, 2. Law 20-0625, 3. HABC 20-0625, 4. Finance 20-0625, 5. HCD 20-0625, 6. 2nd Reader Amendments 20-0625~1st (comm), 7. 20-0625~3rd Reader, 8. Signed Ordinance 20-0625

Date	Ver.	Action By	Action	Result
12/7/2020	0	Mayor	Signed by Mayor	
11/16/2020	0	City Council	Advanced to 3rd Reader on same day	
11/16/2020	0	City Council	Approved and Sent to the Mayor	
11/16/2020	0	Housing and Urban Affairs Committee	Recommended Favorably with Amendment	
11/10/2020	0	Housing and Urban Affairs Committee	Recommended Favorably with Amendment	Pass
10/19/2020	0	Housing and Urban Affairs Committee	Scheduled for a Public Hearing	
10/8/2020	0	The City Council	Refer to Housing Authority of Baltimore City	
10/8/2020	0	The City Council	Refer to Dept. of Finance	
10/8/2020	0	The City Council	Refer to City Solicitor	
10/8/2020	0	The City Council	Refer to Housing and Community Development	
10/8/2020	0	The City Council	Refer to Sheriff's Office	
10/5/2020	0	City Council	Assigned	
10/5/2020	0	City Council	Introduced	

Explanation: Capitals indicate matter added to existing law.

[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*
City of Baltimore
Council Bill

Introduced by: President Scott

A Bill Entitled

An Ordinance concerning
Landlord-Tenant - Right to Counsel in Eviction Cases

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 and Community Development oversee the provision of counsel for individuals in certain matters involving eviction in Baltimore City; setting forth certain additional duties of the Commissioner of the Department of Housing and Community Development and the Affordable Housing Trust Fund Commission; providing for an additional member of the 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 metrics; providing for the severability of certain provisions; requiring licensed landlords to disclose to their tenants certain information regarding the right to counsel in eviction matters.

By adding

Article 13 - Housing and Urban Renewal
Section(s) 6A-1 through 6A-6, to be under the new subtitle,
“Tenant’s Right to Counsel in Eviction Cases”
Baltimore City Code
(Edition 2000)

By repealing and re-ordaining, with amendments

Article 13 - Housing and Urban Renewal
Section 7-3
Baltimore City Code
(Edition 2000)

Recitals

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

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;

Whereas, 99% of tenants in eviction proceedings are unrepresented and 96% of landlords are 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;

Whereas, the Mayor and City Council of Baltimore seek to end the disparate impact of 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

Whereas, tenants must be able to invoke and enforce the right to legal representation in any 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

Article 13. Housing and Urban Renewal

Subtitle 6A. Tenant's Right to Counsel in Eviction Cases

§ 6A-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings specified.

(b) *Commission.*

“Commission” means the Baltimore City Affordable Housing Trust Fund Commission established by Article I, § 14 of the City Charter.

(c) *Commissioner.*

“Commissioner” means Commissioner of the Department of Housing and Community Development or the Commissioner’s designee.

(d) *Covered individual.*

(1) *In general.*

“Covered individual” means any individual who occupies a dwelling within the City of Baltimore under a claim of legal right other than the owner.

(2) *Inclusion.*

“Covered individual” includes any tenant in a building owned, operated, or managed by the Housing Authority of Baltimore City.

(e) *Covered proceeding.*

(1) *In general.*

“Covered proceeding” means:

- (i) any judicial or administrative proceeding to evict or terminate the tenancy or housing subsidy of a covered individual;
- (ii) any proceeding deemed by a designated organization as the functional equivalent of a proceeding described in subparagraph (I); or
- (iii) any first appeal of such a proceeding where the Designated Organization determines that there are good grounds for an appeal.

(2) *Inclusions.*

“Covered proceeding” includes any judicial or administrative proceeding to remedy a violation of:

- (i) City Public Local Laws § 9-9 {“Rent Escrow Law: In general”};
- (ii) City Public Local Laws § 9-9A {“Rent Escrow Law: Landlord’s non-compliance with lease”};
- (iii) City Public Local Laws § 9-10 {“Rent Escrow Law: Retaliatory actions”};
- (iv) State Real Property Article § 8-208.1 {“Retaliatory actions due to reporting violations or complaints prohibited”}; and
- (v) State Real Property Article § 8-216 {“Restrictions relating to taking or threatening to take possession of dwelling unit”}.

(f) *Designated organization.*

“Designated organization” means any not-for-profit organization or association that is designated by the Director under this subtitle that:

- (1) has the capacity to provide legal representation to covered individuals facing eviction; and
- (2) agrees to adhere to the standards of practice established in rules and regulations adopted under this subtitle.

(g) *Designated community group.*

“Designated community group” means a not-for-profit community organization or association designated by the Commissioner that has the capacity to conduct tenant outreach, engagement, education, and information regarding this subtitle.

(h) *Includes; including.*

“Includes” or “including” means by way of illustration and not by way of limitation.

(i) *Legal representation.*

(1) *In general.*

“Legal representation” means ongoing legal representation provided by a designated organization to a covered individual and all legal advice, advocacy, and assistance associated with that representation.

(2) *Inclusions.*

“Legal representation” includes the filing of a notice of appearance on behalf of the covered individual in a covered proceeding.

§ 6A-2. Rules and regulations.

(a) *In general.*

The Commissioner, with the advice and consultation of the Commission, shall adopt rules and regulations to carry out this subtitle, including providing tenant education regarding their rights under this subtitle.

(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.

§ 6A-3. Right to counsel in eviction-related proceedings.

(a) *In general.*

(1) Subject to provisions of this subtitle including any rules and regulations and with the advice and consultation of the Commission, the Commissioner shall ensure that all covered individuals receive legal representation from a designated organization in a covered proceeding as soon as practicable after the initiation of that proceeding, but no later than at the time of the covered individual’s first scheduled appearance in a covered proceeding if possible.

(2) The Commissioner shall prioritize the provision of legal representation based on median income with covered individuals having the lowest median income receiving the highest priority.

(b) *Limitation.*

Covered individuals shall receive legal representation unless circumstances specific to the individual or case, such as a conflict with the Maryland Attorneys’ Rules of Professional Conduct, make legal representation infeasible to render as determined by a designated organization.

(c) *Engagement and education.*

In addition to overseeing the administration of this subtitle, the Commissioner, with the advice and consultation of the Commission, shall engage designated community groups to engage and educate tenants about their rights, including:

- (1) hosting know-your-rights trainings and other workshops for tenants;
- (2) distributing written information to tenants;
- (3) assisting tenants to form and maintain tenant associations;
- (4) referring tenants to designated community groups; and

(5) engaging in any other activity designed to engage, educate or inform tenants about their rights.

(d) *Availability of funds.*

Legal representation under this section is subject to the appropriation of funds in accordance with the City Charter.

§ 6A-4. Additional Commission member.

(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.

(b) *Qualifications.*

(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.

(2) *In general.*

The Commission member appointed under this section shall be:

- (1) a tenant residing in Baltimore City; and
- (2) a member of an extremely low-income household.

§ 6A-5. Annual report.

(a) *In general.*

No later than August 31 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:

- (1) the number of covered individuals served;
- (2) the extent of legal representation performed;
- (3) metrics on evaluating outcomes; and
- (4) the engagement and education of tenants.

(b) *Posting.*

The Commissioner shall prominently post the report required by this section on the City’s website.

(c) *Hearing.*

No later than September 30 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.

§ 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.

Subtitle 7. Residential Lease Requirements

§ 7-3. Information required.

(a) *In general.*

(1) Each residential lease must contain the following information:

- (i) the name, residence address, and residence telephone number or the name, business address, and business telephone number of the owner of the property, or
- (ii) the name, residence address, and residence telephone number or the name, business address, and business telephone number of an agent of the owner who is authorized to receive court process on behalf of the owner in 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.

(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.

(3) Whenever a landlord requires the tenant to reimburse the landlord for allocated costs of water or wastewater service, the lease required by this subsection shall also:

- (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
- (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.

(b) *Changes.*

(1) 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.

(2) The notice must be sent to the tenant by first class mail.

(c) *Additional required disclosures.*

(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:

- (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;
- (ii) pre-trial and day of trial mediation programs available to resolve landlord-tenant disputes; and
- (iii) a tenant's right to know the amount of rent that is in arrears.

(2) A tenant must also be given a copy of the brochure required by paragraph (1) of this subsection:

- (i) at the time that a lawsuit is commenced by the owner or landlord against the tenant; [and]
- (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
- (iii) at the time that the Housing Authority of Baltimore City sends a notice to terminate a tenant's subsidy or tenancy.

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.

Section 3. And be it further ordained, That:

- (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.
- (b) Factors that the Commissioner and the Commission shall consider when phasing-in legal representation to covered individuals include:
 - (1) the prioritization of individuals over the phase-in period;
 - (2) the availability of funding from the City, State, and other sources as the case may be;
 - (3) the availability of trained and qualified attorneys to provide legal representation;
 - (4) the scope of the need for legal representation; and
 - (5) any other appropriate logistical consideration.

Section 4. And be it further ordained, That this Ordinance takes effect on the date it is enacted.