
NEWS

Westchester tenants to get access to attorneys for eviction proceedings. Here's how.

**Eduardo Cuevas**

New York State Team

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Compared to landlords, renters are drastically underrepresented by attorneys in eviction cases. But they can soon have access to free legal representation in Westchester County under a bill recently signed into law.

On May 15, the county Board of Legislators unanimously passed an “Access to Counsel” bill to guarantee legal representation to low-income households facing eviction. More than nine in 10 landlords in eviction proceedings have attorneys, whereas less than 10% of renters have legal representation, according to estimates by the Westchester Right To Counsel Coalition, which has long advocated for the policy.

“It’s the right thing to do to even the playing field,” Legislator Damon Maher, D-New Rochelle, told USA TODAY Network New York.

On Wednesday, County Executive George Latimer held a ceremonial signing to make the bill a law.

Going to court: When tenants face eviction, what happens in court? New study keeps tabs on judges' actions

Who’s included:

People with annual incomes at or below 300% of the federal poverty line, or 60% of Westchester’s area median income, whichever is higher. Currently, the limit to be eligible is around \$90,000 for a family of four.

People in administrative proceedings who may lose subsidies for federal Section 8 housing vouchers or public housing tenancy.

People challenging unlawful rent increases, as well as others locked out of their homes, and people seeking to restore essential services.

Budget fights: Good cause eviction bill cut from NY budget. What's next for tenants, landlords?

How does it work?

More than a dozen cities and three states have similar laws, commonly called right-to-counsel, according to the National Coalition for a Civil Right to Counsel, an advocacy organization. Many governments passed these laws amid debates around emergency rental assistance programs and eviction moratoria enacted during the COVID-19 pandemic, when many people who lost work couldn't pay rent.

"It makes sure that the landlord isn't getting a judgment for more than the landlord is entitled to," said Jason Mays, the deputy director of the legal aid nonprofit Hudson Valley Justice Center, and a co-chair of the local Right-to-Counsel Coalition. "The attorneys can make sure that the landlord isn't evicting a tenant who may have defenses under the law."

After declines in statewide eviction filings at the height of the pandemic — with 109,000 in 2020 and over 69,300 in 2021 — filings have ticked back up in 2022, to nearly 194,000, state Unified Court System data showed. Still, this is less than 2019, when there were about 262,500 filings. Westchester has similar trends.

New York State also has a right-to-counsel bill that failed to be included in the recent budget passed in early May.

In 2017, New York City passed its right-to-counsel law starting with ZIP codes most affected by evictions. The city law showed early success, with tenants represented by lawyers more often staying in their homes. But the number of renters who had attorneys has dropped in recent years. Contracted attorneys have reportedly struggled with caseloads, and judges have processed cases despite tenants not getting legal assistance.

Maher and Legislator Christopher Johnson, D-Yonkers, championed Westchester's proposal, first with a pilot program in Yonkers to represent tenants in 2019.

The county's 2021 budget earmarked funds to study right-to-counsel. Proponents said the policy could reduce costs associated with people becoming homeless, or their children having to be bused to their original school district after their family had been forced to move.

Latimer told The Journal News/lohud he didn't need the study. In May 2022, he introduced the Access to Counsel legislation to the Board of Legislators.

What else is included:

The law establishes an Office of Housing Counsel under the Department of Social Services to identify nonprofit organizations or associations to represent tenants in the county.

Once a director is appointed to the office, they must submit an implementation plan for the countywide program within six months.

Annual reports are required that detail estimates of people covered and those who received legal services, including demographic data about where they live and their income.

It's projected to cost between \$15 and \$20 million, the county's assistant budget director, William Olli, wrote in a fiscal analysis.

For now, the legislation has a four-year end date from when the housing counsel office director submits the plan to the Board of Legislators.

The time limit is meant to help the county restructure the law if needed, Latimer said, pointing to issues with New York City's law. "But in principle, we're going forward with this because we believe that a person of any economic interest that faces a major housing-related issue should have representation."

Advocates plan to push lawmakers to extend the Access to Counsel policy beyond four years to better allow attorneys to manage caseloads.

Housing court a 'miserable experience for anybody'

Under the county bill, judges also aren't required to wait for a tenant to obtain an attorney, Mays said. The statewide right-to-counsel proposal would change this.

Most eviction cases are for nonpayment of rent that often result in settlements best handled by attorneys, said Tim Foley, CEO and executive vice president of the Building and Realty Institute of Westchester and the Mid-Hudson Region, a property owners' trade association.

"Housing court is a miserable experience for anybody if you're not an attorney," he said.

Eduardo Cuevas covers race and justice for the USA TODAY Network of New York. He can be reached at EMCuevas1@gannett.com and followed on Twitter @eduardomcuevas.

