



## Legislation Text

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**AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE XIX, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY AMENDING CHAPTER 3 ENTITLED PROVISION OF LEGAL SERVICES IN EVICTION PROCEEDINGS, TO EXPAND THE POOL OF ELIGIBLE PROVIDERS OF LEGAL SERVICES, AMONGST OTHER CHANGES.**

**WHEREAS**, the Municipal Council adopted Ordinance 6PSF-I December 19, 2018, creating the Office of Tenant Legal Services (“OTLS”) to provide and coordinate free legal assistance to Newark’s tenants of low income facing eviction or the threat thereof; and

**WHEREAS**, the OTLS issued a Request for Proposals (hereinafter “RFP”) as required by the Ordinance to select a provider of legal services to serve this needy population; and

**WHEREAS**, it has become necessary to give the OTLS the flexibility to utilize the appropriate procurement processes as authorized under the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) necessary for the successful implementation and operation of the OTLS and in order for it to better serve Newark’s tenants in need; and

**WHEREAS**, it is necessary to amend Ordinance 6PSF-I December 19, 2018, to allow the OTLS to utilize multiple appropriate procurement processes in order to expand the OTLS’s pool of eligible providers of legal services to Newark’s tenants in need.

**Note:** Additions are shown in **bold and underlined** and deletions are shown as strikethrough.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**Section 1.** Title XIX entitled Rent Control, Chapter 3, entitled “Provision of Legal Services in Eviction Proceedings” of the Newark Municipal Code, is hereby amended and supplemented, to expand the pool of eligible providers of legal services, amongst other changes:

### **19:3-0. DECLARATION OF PUBLIC NECESSITY.**

a. The Governing Body of the City of Newark does hereby declare that an emergency exists, within the City of Newark, where many of its residents are homeless or are at risk of homelessness and/or reside in uninhabitable living conditions due to a shortage of affordable housing and a lack of knowledge and awareness of tenants’ rights; and

b. This emergency was created, in part, by the filing of frivolous and/or retaliatory eviction actions by landlords renting residential property in the City of Newark; and

c. A landlord will be less likely to file a frivolous lawsuit if she/he is aware that her/his tenant will be assisted by legal counsel in preparing and asserting available legal defenses to the tenant's eviction action; this will mitigate the aforementioned emergency and reduce the serious threats to the public health, safety and general welfare of the citizens of the City of Newark created by said emergency; and

d. A lack of knowledge and awareness of their legal rights, the fear of being evicted without good cause, and being forced to seek housing in a limited housing market, discourages many Newark tenants from fighting eviction actions and/or from ~~complain~~ **protesting against** substandard housing conditions; it is this fear that contributes to homelessness as well as to the harmful, uninhabitable conditions in which many Newark tenants live; this warrants legislative action by the Governing Body; and

e. The Governing Body of the City of Newark does hereby declare that these conditions pose a serious threat to the public health, safety and general welfare of the residents of the City of Newark, particularly the approximately 78.2% of Newark residents who, according to 2016-2017 U.S. Census Bureau data, are renters. N.J.S.A. 40:48-2, allows any municipality to make ordinances, rules, regulations, and by-laws, as the municipality deems necessary and proper for the good government, order and protection of its residents and for the protection of the health, welfare and safety of the municipality and its residents; and

f. Pursuant to these aforementioned police powers, in order to protect the health, safety and welfare of the citizens of the City of Newark, it is necessary to provide access to legal services to tenants who are subject to eviction proceedings **facing eviction or the threat thereof.**

### 19:3-1. DEFINITIONS.

For the purposes of this Chapter, the following terms have the following meanings:

**Covered Individual** shall mean a single tenant or household of a rental dwelling unit located in the City of Newark whose income falls below the identified poverty level within this ordinance, and who is a respondent in a Covered Proceeding.

**Covered Proceeding** shall mean any **of the following: 1) A summary proceeding in The Superior Court of New Jersey - Essex County, seeking to evict an Eligible Newark Tenant Covered Individual, including a summary proceeding seeking to seeking possession removal of a tenant for the non-payment of rent, or an alleged holdover; and 2) Administrative/Grievance hearings with public housing and/or public agencies that provide rental assistance after said agency has taken some action (including termination/notice of termination of subsidy) that adversely affects a tenant's rights, duties, welfare or status and could result in eviction.**

**Designated Organization** shall mean a not-for-profit organization, or a for profit legal services provider, **including law firms and solo practitioners,** /association that provides Pro Bono legal representation, who has ~~that has~~ the capacity to provide legal services to **Newark's tenants of low income** low income individuals facing eviction in the Superior Court of New Jersey - Essex County **or the threat thereof.**

**Eligible Newark Tenant - refers to a single tenant or household of a rental dwelling located in the municipality of Newark, New Jersey whose household income is 200 percent or less of the current federal poverty level, who is either facing eviction or some action by a governmental assistance-providing agency (including termination/notice of termination of subsidy) that**

**adversely affects a tenant's rights, duties, welfare or status and could result in eviction, and whose case poses no conflict of interest to the City.**

**Income-Eligible Individual** shall mean an ~~Covered Individual~~ **individual** whose annual gross household income is not in excess of 200 percent of the official federal poverty guidelines defined by the United States **Department of Health and Human Services**. Office of Management and Budget pursuant to Subsection (2) of 42 U.S.C.A. § 9902.

**Landlord-Tenant Court** shall mean the Superior Court of New Jersey - Essex County **Landlord/Tenant Section of the Special Civil Part of the Superior Court of Essex County**.

**Legal Representation** shall mean ongoing legal representation provided by a designated organization to an income-eligible individual and all legal advice, advocacy, and assistance associated with such representation.

**Legal Services** shall mean **any form of** legal representation **assistance** to an **Eligible Newark Tenant**. ~~Covered Individual~~.

**Mayor** shall mean the Mayor of the City of Newark, New Jersey.

**Municipal Council** shall mean the Governing Body of the City of Newark, New Jersey that comprises the legislative branch of the City of Newark, New Jersey's government.

**Partner Attorney** shall mean an attorney employed by or affiliated with a Designated Organization that agrees to provide legal ~~representation~~ **services** to residents pursuant to this ordinance.

**Retainer Agreement** shall mean a contract between the **Eligible Newark Tenant** ~~Covered Individual~~ and the Partner Attorney from the Designated Organization for the provision of legal assistance or services ~~with regard to a Covered Proceeding~~.

### **19:3-2. PROVISION OF LEGAL SERVICES.**

a. There is established in the Department of Economic and Housing Development, the Office of Tenant Legal Services to establish a pilot program to provide access to legal services for Newark residents in eviction proceedings in the Superior Court of New Jersey - Essex County. Subject to appropriations, the City of Newark shall provide funding to be used exclusively to provide access to legal services and shall ensure that:

1. The Office of Tenant Legal Services be coordinated by a ~~Director~~ **Coordinator** who shall, no later than April 1, 2019, establish a program to provide access to legal services for Newark residents in the Superior Court of New Jersey - Essex County; and

2. The ~~Director~~ **Coordinator** shall establish a program that **complies with the procurement process of the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.** utilizes the Request for Proposal process to select **legal services providers** non-profit organization to serve as designated organizations that have the capacity to provide legal services to **eligible** Newark residents in eviction proceedings in the Superior Court of New Jersey - Essex County **tenants facing eviction or the threat thereof**; and

3. **Every** All Income-eligible individuals **Eligible Newark Tenant** shall receive access to full legal representation no later than their first scheduled appearance in a Covered Proceeding in the Superior Court of New Jersey - Essex County, or as soon thereafter as is

practicable; **and**

4. The ~~Director~~ **Coordinator** shall conduct annual reviews to establish key performance indicators; **and**

5. Any legal services performed by a Designated Organization pursuant to this Chapter shall not replace, or satisfy any obligations or responsibilities of such designated organization pursuant to any other program, agreement, or contract; **and**

6. The ~~Director~~ **Coordinator** shall submit a proposed annual budget to the Mayor to be considered at a budget hearing to be conducted by the Mayor and/or Business Administrator. Subject to appropriation, the Mayor and/or the Business Administrator shall determine the level of funding for the Office of Tenant Legal Services; **and**

7. If authorized by State and Federal law, the creation of a Landlord Tenant Fund, to receive funds to be used exclusively to provide legal **defense** services to Newark **tenants** residents **facing eviction; and** in landlord-tenant proceedings in the Superior Court of New Jersey ~~Essex County~~.

b. 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 City or any agency, official, or employee thereof.

### 19:3-3. REPORTING.

a. No later than sixty (60) days after the end of each **fiscal year RFP** period, the **Coordinator** ~~Director~~ of the Office of Tenant Legal Services shall submit to the Mayor and the Municipal Council, and post online, a **report on review** of the legal services program and information regarding its implementation, to the extent such information is available, including, but not limited to:

1. The ~~estimated~~ number of covered individuals;

2. The number of individuals currently receiving legal services and the actual number of individuals who received legal services for ~~that the prior year, disaggregated~~ **identified** by the following characteristics of such individuals:

(a) Ward and postal code of residence;

(b) Age of head of household;

(c) Household size;

(d) Estimated length of tenancy;

(e) Approximate household income;

~~(f) Receipt of ongoing public assistance at the time such legal services were initiated;~~

~~(g)~~ **Whether the Tenancy Tenant resides** in rent-regulated housing; and

~~(h)~~ **Whether the Tenancy Tenant resides** in housing operated by the Newark Housing Authority; **and**

**(h) Whether and how the tenancy is federally subsidized.**

3. Outcomes immediately following the provision of full legal representation, as applicable and available, including, but not limited to, the number of:
  - (a) Case dispositions allowing individuals to remain in their residence; and
  - (b) Case dispositions requiring individuals to be displaced from their residence; and
  - (c) Instances where the attorney was discharged or withdrew.
4. Non-payment and holdover petitions filed in Landlord-Tenant Court, and warrants of removal served by landlords.

#### 19:3-4. PUBLIC HEARING.

- a. The ~~Director~~ **Coordinator** of the Office of Tenant Legal Services shall conduct a public hearing each year, no later than sixty (60) days before the end of an RFP period each fiscal year, to receive recommendations and feedback about the program; and
- b. The ~~Director~~ **Coordinator** shall provide notice of the public hearing within thirty (30) days of the hearing which shall be open to the public and shall be:
  1. Posted in public area of the ~~Essex County~~ Landlord-Tenant Court; and
  2. Posted in all City of Newark social service offices, the Newark Rent Control Office, at ~~organizations providing legal services through the existing RFP~~ and sent to community organizations.
- c. Written and or oral testimony may be submitted at the hearing; and
- d. The ~~Director~~ **Coordinator** shall cause a transcript of the hearing to be produced and shall make the transcript available to the public in the Office of ~~Landlord~~ Tenant **Legal** Services or through other available means available to the ~~Director~~ **Coordinator**.

**Section 2:** If any provision of this ordinance or application thereof to any person(s) or circumstances is judged to be invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the ordinance that can be given effect without the invalidated provision or application and to this end the provisions of this ordinance are declared severable.

**Section 3:** This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

#### **STATEMENT**

This Ordinance amends Title XIX, entitled "Rent Control, Chapter 3, entitled, Provision of Legal Services in Eviction Proceedings", of the Newark Municipal Code, amended and supplemented by expanding the pool of eligible providers of legal services, amongst other changes.