

Right to Counsel Section-by-Section February 11, 2021

TITLE: An Act promoting housing stability and homelessness prevention in Massachusetts

SECTION 1: This bill amends and adds to Chapter 239 of the General Laws.

SECTION 14: Key Definitions

“Covered proceeding” is an eviction action brought under Chapter 239 or 139 or similar proceedings, including administrative proceedings to terminate a mobile or project-based housing subsidy or public housing tenancy.

“Designated organization” is a not-for-profit organization designated by MLAC to contract to provide legal assistance for eligible individuals.

“Eligible individual” is a party in a covered proceeding who is a indigent and is either a tenant or occupant of rented or leased housing or an owner-occupant of a 1 to 3-family dwelling in Massachusetts that is their sole dwelling.

“Full legal representation” is representation provided by a lawyer in a designated organization to an eligible individual and all legal advice, advocacy, and assistance associated with representation, including, but not limited to, the filing of a notice of appearance on behalf of the eligible individual in a covered proceeding.

“Indigent” describes a person who receives certain public assistance benefits or whose after-tax income is 80 percent or less of area median income, or who is unable to pay the fees and costs of covered proceedings without depriving themselves or their dependents of life necessities, including food, shelter and clothing.

SECTION 15: Establishing a Right to Counsel Program

- a. There shall be a statewide Right to Counsel Program in eviction cases, funded by a specifically dedicated general court appropriation and administered by the Massachusetts Legal Assistance Corporation (MLAC).
- b. With specifically designated state funding, MLAC shall establish a program to provide free legal assistance and full representation to eligible individuals in covered proceedings.
- c. MLAC shall publicly issue a request for proposals for qualified organizations to apply to become designated organizations. All organizations seeking to become designated organizations will have the right to apply for funding.

- d. Designated organizations shall have substantial expertise in housing law and in furnishing free legal assistance to the low-income community. Designated organizations shall identify the geographic area in which they will provide representation, identify plans to reach and represent people with limited English proficiency, and provide supervision and training, incorporating paralegals, legal interns or law students, where possible.
- e. MLAC shall issue a request for proposals for a qualified legal aid organization to coordinate statewide representation of eligible tenants and a qualified legal aid organization to coordinate statewide representation of eligible owner-occupants. Such organizations shall provide programmatic support in addition to convening statewide trainings and forums.
- f. MLAC shall be responsible for exercising oversight, implementing fiscal controls, and all data collection, deliverables, and program evaluation.
- g. MLAC shall appoint a 15-member advisory committee that includes low-income tenants, low-income owner-occupants, non-profit community-based organizations, statewide advocacy organizations, and municipal officials. Member shall have a demonstrated commitment to homelessness prevention and housing stability. The advisory committee shall be convened by MLAC regularly, no less than twice a year.

SECTION 16. Notification of Right to Counsel

- a. The Supreme Judicial Court shall approve a form submitted by MLAC, with input from the advisory committee, to notify individuals about their eligibility for a right to counsel and shall consider other forms recommended by MLAC, with input from the advisory committee, as needed.
- b. Lessors must include the form with notices to quit and summons and complaints in covered proceedings. The trial court shall notify lessors about the required form and lessors' potential eligibility for legal counsel. The form must be posted on the trial court's website.
- c. If an eligible tenant, occupant or owner-occupant does not receive these forms or if legal counsel does not have time to file responsive pleadings, there shall be a reasonable continuation of the proceedings.
- d. The Supreme Judicial Court shall approve a written form so eligible individuals can voluntarily waive their rights under this act.

SECTION 2: The general court shall appropriate funding for the Right to Counsel Program through a specifically designated line item the Judiciary budget.

SECTION 3: This act is effective upon passage.