Assembly Bill No. 1487

Passed the Assembly  September 9, 2021

Chief Clerk of the Assembly

Passed the Senate  September 8, 2021

Secretary of the Senate

This bill was received by the Governor this _____ day of ____________, 2021, at _____ o’clock _____m.

Private Secretary of the Governor
An act to add Article 17 (commencing with Section 6250) to Chapter 4 of Division 3 of the Business and Professions Code, relating to legal assistance.

LEGISLATIVE COUNSEL'S DIGEST


Existing law prescribes certain rights and limitations for landlords and tenants subject to eviction and certain procedures for civil actions involving evictions.

Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation, governed by a board of trustees. Existing law requires an attorney to maintain short-term deposits of client funds in an Interest on Lawyers’ Trust Account (IOLTA) and requires the interest and dividends earned on the account to be paid to the State Bar for the funding of certain programs that provide civil legal services without charge to indigent persons. Existing law requires the board of trustees to adopt regulations and procedures necessary to implement provisions, referred to as the Legal Services Trust Fund Program, that govern the funding of those programs. Existing administrative law establishes a Legal Services Trust Fund Commission to administer revenue from IOLTA and other funds remitted to the trust fund program.

This bill would establish the Homelessness Prevention Fund to be administered by the commission. The bill would require the commission, subject to appropriation to the State Bar by the Legislature, to distribute moneys in the fund in the form of grants, awarded on a competitive basis, to fund prescribed legal services, education, and outreach for tenants relating to eviction or displacement. The bill would require the commission to develop guidelines for the grant process in accordance with specified requirements. The bill would establish eligibility requirements for grant applicants, including that the applicant agrees to provide all of the services funded by the grant without charge to recipients. The bill would require a grantee to report semiannually to the
commission on certain activities and services funded by the grant and would prohibit a grantee from using more than 15% of the allocation received from the fund for administrative costs in the first year it receives a grant and 10% in every year thereafter. The bill would limit the State Bar expenditure of funds for administration to the actual costs of administration of these provisions, up to 5% of the funds provided.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:
(a) There currently exists in the State of California a housing and homelessness crisis.
(b) According to the 2019 Annual Homeless Assessment Report to Congress, California has at least 151,278 individuals experiencing homelessness on any given day.
(c) The COVID-19 pandemic and economic fallout are threatening to worsen the situation as Californians face possible eviction due to job losses, decreased work hours, and unpaid rent.
(d) Residential evictions have contributed to the housing and homelessness crisis by exacerbating community instability and displacing households from existing housing. For example, research indicates that a household that has experienced an eviction or received an eviction notice in the past is at significantly increased risk of becoming homeless.
(e) Representation in the judicial eviction process is extremely imbalanced. For example, 90 percent of landlords nationwide benefit from legal representation in eviction proceedings, while only 10 percent of tenants are able to secure legal assistance in evictions. In a recent national poll, 64 percent of voters from all political backgrounds supported funding legal services to prevent evictions.
(f) Evidence demonstrates that increasing the availability of legal resources to tenants facing eviction leads to the avoidance of displacement in many instances.
(g) In addition, providing legal assistance and eviction prevention services to tenants can drastically improve outcomes, has demonstrated economic benefits, and can generate significant cost savings to public agencies. For example:
(1) A study of a proposed Right to Counsel program in the City of Los Angeles found that, for every $1 invested, the program would generate returns of approximately $3.48 to the City of Los Angeles and $4.80 to the County of Los Angeles. The analysis found that this return on investment would be generated primarily by the avoidance of public costs related to shelter and housing programs, school funding, health care, and foster care, and that a Right to Counsel program could provide numerous additional, unquantifiable benefits.

(2) A study of the City of Philadelphia’s Right to Counsel program found that while only 22 percent of unrepresented tenants were able to avoid displacement from their homes through eviction, 95 percent of tenants with representation were able to stay in their homes, and represented tenants were twice as likely to receive a favorable judgment.

(3) A recent evaluation of the City of San Francisco’s Right to Counsel program found that 67 percent of tenants who received representation through that program were able to stay in their homes, including 80 percent of African American tenants.

(4) A recent report on the City of New York’s Right to Counsel program found that in ZIP Codes where it was implemented, 84 percent of represented tenants were able to stay in their homes. In these ZIP Codes, evictions have declined 29 percent.

(5) Numerous jurisdictions have also experienced a decrease in eviction filings in their court system after instituting Right to Counsel programs.

(6) An evaluation of the Sargent Shriver Act Civil Counsel Programs found that, due to increased settlements, courts were more efficient and had reduced costs.

(h) Programs that pair legal assistance with education and outreach have demonstrated an enhanced ability to prevent displacement, avoid eviction filings in many instances, and resolve issues that may lead to displacement if left unaddressed.

(i) The coronavirus (COVID-19) pandemic is expected to further exacerbate California’s housing affordability crisis, as well as the implications of that crisis. Research from the University of California, Los Angeles, indicates that expiring eviction moratoriums during the pandemic resulted in a national increase of approximately 433,700 COVID-19 cases and approximately
10,700 additional deaths between March 13 and September 3, 2020, alone.

(j) Programs that pair legal assistance with education and outreach will help prevent displacement and help tenants recover economically from the coronavirus (COVID-19) pandemic. Legal services organizations report that emergency eviction protections put in place at the national, state, and local levels, including recent protections contained in AB 3088 (2020) and SB 91 (2021), have been successful in protecting tenants with representation from eviction, but have been more difficult to navigate for unrepresented tenants, and many tenants are unaware of their rights.

SEC. 2. Article 17 (commencing with Section 6250) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 17. Homelessness Prevention Fund - Eviction Prevention and Defense Services

6250. (a) The Homelessness Prevention Fund is hereby established under the administration of the Legal Services Trust Fund Commission in the State Bar.

(b) Moneys in the Homelessness Prevention Fund shall be made available, upon appropriation by the Legislature, to the State Bar to be used as provided in this article.

6251. (a) The Legal Services Trust Fund Commission shall distribute funds made available pursuant to Section 6250 to eligible applicants in the form of grants awarded on a competitive basis to fund eligible services pursuant to this article.

(b) The Legal Services Trust Fund Commission shall develop guidelines for a competitive grant process to implement this article, which shall include the following requirements:

(1) To correct historic underinvestments in legal services and lack of legal resources, the Legal Services Trust Fund Commission shall ensure that at least 25 percent of total funds are reserved for making awards to eligible applicants in the Counties of Alpine, Butte, Del Norte, Fresno, Glenn, Humboldt, Imperial, Kern, Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc, Riverside, San Bernardino, San Joaquin, Shasta, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, and Yuba. The Legal Services Trust Fund Commission may make funds so reserved available to other areas
if, after providing notice of the availability of the funding, no qualified applications are received by the application deadline.

(2) The Legal Services Trust Fund Commission shall adopt a rubric to fairly and consistently evaluate grant proposals that it receives.

6252. (a) Subject to Section 6250, services to prevent eviction or displacement for qualified tenants eligible to be funded pursuant to this article include:

(1) Limited-scope legal services that provide tenants with legal assistance designed to prevent eviction or displacement. A legal service provider of a grantee may provide a recipient with limited-scope representation at any point at which the legal service provider deems the recipient to be at risk of eviction or displacement by resolving issues leading to eviction or displacement, responding at various stages of the eviction process, or addressing other housing-related legal issues that increase housing instability. Limited-scope legal services includes, but is not limited to, advice and assistance responding to written notices, pro per responses to unlawful detainers, assisting with reasonable accommodation requests, addressing habitability issues, advising a tenant of their rights and obligations in connection with rental payments, advising tenants regarding rental debt and ensuing consumer action and small claims proceedings, and addressing housing discrimination.

(2) Full-scope legal representation to qualified households facing eviction or imminent displacement or the threat of eviction or imminent displacement. A legal service provider of a grantee may provide a recipient with full-scope legal representation after a landlord issues a written notice of intent to evict or at any other point at which the legal service provider deems the recipient to be at risk of eviction or displacement. The legal service provider may continue representation of the recipient through postjudgment motions and, depending on the merits of the case, may provide representation in connection with an appeal.

(3) Education regarding tenant rights, fair housing laws, landlord obligations, and related legal topics designed to address factors leading to the avoidable displacement of tenants, including, but not limited to, information regarding access to additional resources to protect against displacement, prevent homelessness, or mitigate
the effects of displacement. Education may include the use of media or social media to enhance the delivery of information.

(4) Targeted outreach to buildings and neighborhoods where tenants are at heightened risk of displacement to advise tenants of their rights, the availability of additional resources, and options to prevent or mitigate displacement.

(b) (1) Except as provided in paragraph (2), legal services described in this section shall not be provided to households whose income exceeds 80 percent of the area median income.

(2) If funding is provided to the Homelessness Prevention Fund that carries an income eligibility requirement other than as provided in paragraph (1), the more inclusive requirement shall apply.

(c) Legal services described in this section are not required to be provided in a traditional in-person setting. Legal services may be provided with the use of volunteers supervised by attorneys to enhance the efficiency of delivering legal services, to enhance the capacity of a grantee to provide services, or to increase the number of tenants or geographic areas served by the grantee. Legal services may be provided through the use of technology, rather than an in-person setting, so long as efforts are made to make services accessible to tenants who may lack access to such technology.

6253. (a) An applicant is eligible to receive a grant pursuant to this article if the applicant meets all of the following criteria:

(1) The applicant qualifies for Interest on Lawyers’ Trust Account (IOLTA) funding in the year it applies for a grant.

(2) The applicant agrees to provide one or more of the services described in Section 6252.

(3) The applicant agrees to provide all of the services funded by the grant without charge to recipients.

(4) (A) Except as provided in subparagraph (B), the applicant, either individually or in partnership with other entities, agrees to serve recipients without regard to the immigration status of recipients.

(B) An applicant is exempt from subparagraph (A) if the applicant demonstrates a lack of capacity to, and documents efforts to secure partnerships to, provide services without regard to immigration status of the recipients.

(b) The Legal Services Trust Fund Commission shall give preference to applicants that demonstrate any of the following:
(1) A track record of successfully delivering similar services to low-income renters and vulnerable populations.

(2) An ability to provide services or access to services by community members who are limited English proficient, taking into account relevant languages spoken by populations in the proposed service area.

(3) An ability to provide the full range of services described in Section 6252, whether by itself or with other entities pursuant to paragraph (6).

(4) A commitment to prioritize equity by addressing or mitigating barriers to receipt of services, such as a lack of access to technology, and provide services to particularly vulnerable or underserved populations.

(5) Use of technology, media, and other strategies to serve a larger number of recipients.

(6) Partnerships with, or subgrants to, other entities that may enhance the reach of the program, including, but not limited to, community-based organizations, nonprofit organizations, law schools, local governments, and local governmental agencies.

(7) Partnerships between organizations that allow services to be provided to a broader set of community members by addressing barriers related to organizational eligibility requirements.

6254. (a) A grantee that receives an allocation pursuant to this article shall provide the Legal Services Trust Fund Commission semiannually with a report on all of the following, as applicable:

(1) A description of the nature of services provided and the number of recipients provided services under each service category.

(2) If the grantee provided education and outreach services, the approximate number of individuals receiving education and outreach services, a general description of the format for providing those services, and the number of properties or other venues at which the outreach and education was conducted.

(3) The number and breakdown of recipients for whom limited-scope or full-scope legal services were provided and whether those services resolved the recipient’s legal issue or the factors leading to displacement.

(b) If a partner or subgrantee of the grantee is a local government or a local governmental agency, the allocation pursuant to this article shall supplement, and shall not supplant, moneys otherwise allocated by the local government or local governmental agency.
for the provision of legal services for low-income residents or for the prevention of displacement or eviction of low-income renters.

(c) (1) A grantee that receives an allocation pursuant to this article shall not use more than 15 percent of that allocation for administrative costs in the first year it receives a grant and 10 percent in every year thereafter.

(2) For purposes of this subdivision, “administrative costs” does not include staff and overhead costs directly related to carrying out the eligible activities.

(d) No more than 5 percent of the Homeless Prevention Fund funds provided pursuant to this article shall be spent for the administration of these funds by the State Bar, though in no case shall the funds spent exceed the actual costs of administration. Unspent administrative funds shall be redistributed no less than annually to qualifying grantees as prescribed by the Legal Services Trust Fund Commission.

6255. This article shall not be construed to negate, alter, or limit a right to counsel in a criminal or civil action or proceeding otherwise provided by local, state, or federal law.