

RIGHT TO REPRESENTATION IN EVICTION CASES

PRESENTATION TO WILMINGTON CITY COUNCIL

MAY 7, 2025

SARAH RHINE, ESQ. CLASI HOUSING PROGRAM MANAGER

LISA LESSNER, RTR COORDINATOR



LEGISLATION CREATING
THE RIGHT TO
REPRESENTATION IN
EVICTIONS CASES WAS
SIGNED BY GOVERNOR
CARNEY IN JULY 2023.

PHASED
IMPLEMENTATION BEGAN
IN NOVEMBER 2023.

WHO IS ELIGIBLE?

- Household income in preceding 12 months is not greater than 200% of federal poverty guidelines;
- The household resides in a non-exempt unit;
- The legal services organizations do not decline representation; and
- Phased implementation – currently priority is given to tenants certain zip codes. Check bit.ly/EvictionHelpDE for the most current list (and for other resources).
 - As resources allow, cases are accepted from clients in other Delaware zip codes. Typically, income-eligible tenants are not turned away. Additional priority zip codes are added quarterly.

EXCEPTIONS TO RIGHT

A tenant is not eligible to receive legal representation if any of the following apply:

- Legal Service provider has a conflict of interest.
- Legal Service provider declines representation for one or more of the following reasons:
 - Tenant does not comply with the application or representation process.
 - Rules of professional conduct warrant withdrawal.
 - An attorney deems the tenant's defense or appeal to lack merit.
- Other circumstances exist which make legal representation infeasible to render.

WHAT DO LANDLORDS HAVE TO DO?

Effective November 22, 2023, all landlords or housing authorities are required by statute to provide their tenants with a notice, prepared by the Right to Representation Coordinator, that explains the legal representation available to tenants and other available resources.

IMPORTANT NOTICE

FREE LEGAL REPRESENTATION FOR DELAWARE TENANTS

IN EVICTION AND LOSS OF PUBLIC HOUSING/HOUSING VOUCHER CASES

If you are facing eviction or loss of your housing voucher (subsidy), you may have the right to FREE legal representation from one of Delaware's legal aid agencies.

Contact us immediately to see if we can help:

VISIT:

bit.ly/EvictionHelpDE

SCAN:



OR CALL:

302-478-8850

Please keep this information for future reference.

This notice must be provided to tenants when entering a rental agreement and on the first renewal or modification of a rental agreement, and it must be attached to any action brought against a tenant in rental housing including any:
notice of nonpayment under 25 Del. C. § 5502; notice of lease violation under Del. C. § 5513;
notice of lease termination under 25 Del. C. § 5106; or notice to terminate a state or federal housing subsidy.
Effective November 22, 2023



Notice Date: 11/22/2023

EXEMPT LANDLORDS

- The tenant's **landlord is exempt from the law** if the landlord has an **ownership interest in 3 or fewer rental units AND is not represented by an attorney or an agent authorized** by a rule of the Delaware Supreme Court.

WHEN DO LANDLORDS HAVE TO PROVIDE NOTICE?

Notice of the Right to Representation must be provided by the landlord or housing authority to tenants at all the following events:

- On signing a written rental agreement or entering into a rental agreement that is oral.
- On the first renewal or modification of a rental agreement occurring any time after Nov. 21, 2023.
- When the landlord provides any of the notices that:
 - rent is past due,
 - that the tenant has violated a material provision of the rental agreement, or
 - that the rental agreement is terminated.
- When a tenant receives notice of the termination of a housing subsidy.

RESIDENTIAL EVICTION DIVERSION PROGRAM § 5702A.

- The legislation required that the **Justice of the Peace Court** (or its designee) must create a **residential eviction diversion program**.
- The program is for resolving eviction disputes **after a case has been filed**.
- Currently the program includes an online dispute resolution system for fostering communications between tenant and landlord.
- Mediators hired by JP Court to monitor ODR communications and provide live mediation when requested.

WHO HELPS TENANTS?

The nonprofit civil legal agencies that assist with landlord-tenant matters are

- **Community Legal Aid Society, Inc. (CLASI)** – cases with a subsidies
- **Legal Services Corporation of Delaware (LSCD)** – private landlord-tenant cases
- **Delaware Volunteer Legal Services (DVLS)** - assists with overflow and conflicts.

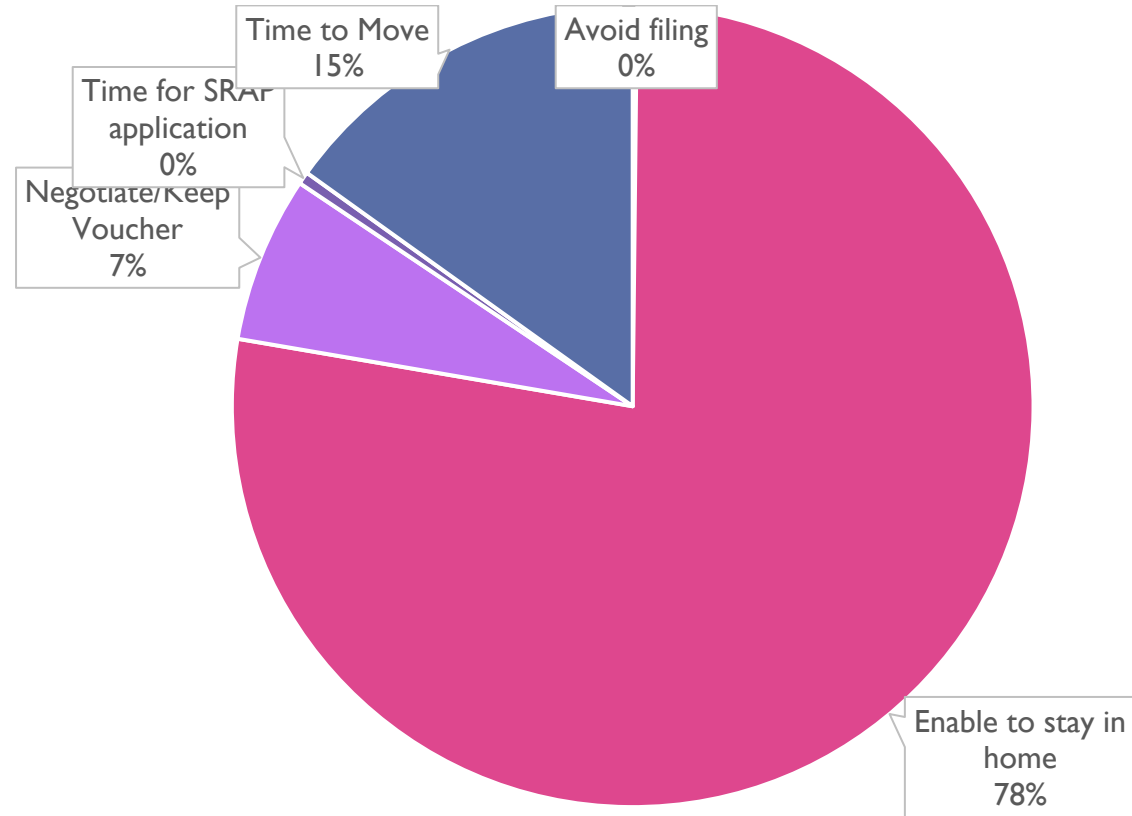
HOW TO GET HELP ?

- Online intake: once completed, cases automatically go to CLASI or LSCD based on type of housing:
bit.ly/EvictionIntakeDE
 - Call 211 for assistance with online intake.
- Call directly for intake:
 - COMMUNITY LEGAL AID SOCIETY: 302-575-0660
 - LEGAL SERVICES CORPORATION OF DELAWARE: 302-575-0408
- Additional information for tenants and landlords can be found on the Delaware Legal HelpLink Eviction Page:
bit.ly/EvictionHelpDE

HOW DOES LEGAL AID HELP CLIENTS?

- **Negotiating with landlords**
- **Identifying defenses**
- **Preventing illegal evictions**
- **Representation in Court**
- **Assistance with accessing resources**
 - **Settlement assistance fund is most efficient and effective way to negotiate stipulated agreement with landlord. The Settlement Assistance Fund was created using ERA funds from DSHA.**
 - **ERA-funded programs are ending:**
 - **Settlement Assistance (closing at end of September 2025 or when funding runs out)**
 - **Housing Stability Program – HSP (closing at end of May 2025)**

SETTLEMENT ASSISTANCE FUND IS USED TO:



SETTLEMENT ASSISTANCE FUND SUCCESS STORIES

Ms. U – Grandmother Raising Two Grandchildren

- **Challenge:** Fell behind on rent after the unexpected loss of her granddaughter and covering funeral expenses.
- **Solution:** A one-time settlement assistance payment enabled her to maintain stability in subsidized affordable housing for herself and her grandchildren.

Ms. C – Single Mother of Three

- **Challenge:** Had to purchase a new vehicle after her old one became unusable, leading to increased expenses and falling behind on rent.
- **Solution:** A one-time settlement assistance payment allowed her to maintain stability in subsidized affordable housing for herself and her children.

Ms. T – 60-Year-Old Woman Living Alone

- **Challenge:** Out of work due to chronic back problems; facing another surgery requiring at least three months of recovery. Since she has been out of work, Ms. T has been living on short-term disability benefits and has fallen behind in her rent.
- **Solution:** A one-time settlement assistance payment facilitated a payment agreement with her landlord, preventing eviction and allowing her to maintain housing during recovery.

CITY OF
WILMINGTON
EVICTION CASES
FILED
NOVEMBER 2023
TO MARCH 2025

Zip Code	17 month total of eviction filings per report from JP Court	Cases Handled by Legal Aid (12 months projected to 17 months)	Filed cases helped with settlement assistance funds
19801	2208	422	108
19802	2626	282	71
19805	1591	239	81
19806	325	37	6
Total	6750	980	266

CITY OF WILMINGTON SETTLEMENT ASSISTANCE PROPOSAL

Estimated City of Wilmington eviction cases per year: 4765

Estimated % of cases that would be eligible for and would accept legal assistance: 30%

Estimated legal aid cases that would benefit from settlement assistance: 50%

$4765 \text{ cases} \times 30\% \times 50\% = 715 \text{ cases}$

Average settlement assistance to settle a case: \$1100

$715 \text{ cases} \times \$1100 = \$786,000$

HOW YOU CAN HELP

- Refer your constituents who are experiencing landlord-tenant issues to 211 or the RTR online intake to determine if they are eligible for RTR. bit.ly/EvictionIntakeDE
- Explain to constituents that legal aid is free, confidential, and trustworthy.
- Distribute RTR flyers at community events
- Consider proposal for providing settlement assistance funds to legal aid agencies to be able negotiate stipulated agreements.

