

Interest Rate Drop Has Dire Results for Legal Aid

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BOSTON — Scores of legal aid societies that help poor people with noncriminal cases — like disputes over foreclosures, evictions and eligibility for unemployment benefits — are being forced to cut their staffs and services, even as requests for help have soared.

In an odd twist, the societies have been hit hard by the Federal Reserve's steep reduction of its benchmark interest rate, which finally plunged last month to near zero.

The rate decline, though generally welcomed as a blow against the recession, has had an unplanned and severe effect on legal aid societies, which depend heavily on revenues that are tied to the federal funds rate. As recently as 2007, the rate was more than 5 percent and legal aid agencies reaped more than \$200 million for their operations.

Now, for many legal aid groups across the country, cutbacks in staffing are expected to reach 20 percent or more over the coming months, even as requests for their services have risen by 30 percent or more.

Legal aid groups have long benefited from little-known programs that draw interest earned from short-term deposits that lawyers hold in trust for clients during, for example, real estate transactions or personal injury payouts. The interest is mainly donated to legal services for the poor.

But as the federal funds rate declined along with the number of real estate transactions, the payout has fallen precipitously. And beleaguered state governments are also curbing their aid.

The director of Connecticut Legal Services, Steven Eppler-Epstein, said that local agencies were already giving out pink slips and that 50 of 150 legal positions statewide might be lost.

"We are watching the interest rates with a sense of horror," he said.

The cutbacks are occurring precisely as soaring foreclosures and unemployment, a surge in disputed applications for food stamps and a possible rise in domestic violence have produced record requests for help.

Some agencies that, in the best of times, had to turn away half of their qualified applicants are facing ever more wrenching choices about whom to represent, decisions that Steven Banks, chief attorney for New York City's Legal Aid Society, compared to those in "a MASH unit in a war zone." Legal aid can represent only one of every seven people seeking help in the city, he said.

In East Texas, where thousands of people whose houses were destroyed by Hurricane Ike last fall are contesting federal denials of aid, and some are living in tents, the regional legal service budget of \$16 million is expected to decline to \$4 million this year. Paul Furrh, director of Lone Star Legal Aid, said his group was already overwhelmed.

Low-income defendants in serious criminal cases have a constitutional right to a lawyer. But there is no such right in civil cases, even though the consequences — losing a home or custody of a child, failing to obtain a protective order quickly — can be just as life-altering.

Federal appropriations for the Legal Services Corporation, the largest source of money for aid groups, have declined over time. This year's level of \$350 million is, when adjusted to inflation, down more than one-third from its peak in 1994. Many states provide a supplement, but they are also in a brutal fiscal squeeze.

Over the last three decades, every state has adopted a program drawing interest from trust or escrow accounts. Called Interest on Lawyers' Trust Accounts, or IOLTA programs, they have been a godsend for struggling legal aid groups, providing \$212 million in 2007, according to the American Bar Association.

But as a result of the collateral damage from the free-falling interest rate, the Massachusetts budget for civil legal services has been cut to \$19 million this fiscal year, from \$27 million; the Boston branch expects to lay off up to one-fifth of its lawyers and paralegals in coming months. People with legal troubles and little money, like Jim Vedrani, 53, of Amesbury, Mass., have found themselves on their own.

As a technician fixing boat motors, Mr. Vedrani earned a right to unemployment benefits when he was let go. Then he took a job working on a farm, but quit after seven weeks because of what he called extreme emotional abuse by his supervisor. "He took every chance to humiliate me in front of others," he said.

He applied to reinstate his unemployment benefits, but the farm supervisor testified that Mr. Vedrani had not quit for good reason, and his claim was denied.

He appealed and contacted the office of Neighborhood Legal Services in Lawrence, Mass., which had recently laid off 7 of 32 staff members. The employment lawyer was too busy to attend his hearing, and Mr. Vedrani lost.

Sheila C. Casey, director of Neighborhood Legal Services, said that based on experience with such disputes, "We probably could have won it."

Mr. Vedrani moved in with friends and now does odd jobs. "With those benefits, I'd have the money to put gas in the car, or to get a haircut or buy shoes before an interview," he said.

Legal aid groups have long engaged in painful triage. A study in 2005 by the Legal Services Corporation found that the agencies it helped finance could represent only half the people who asked for help and qualified for it. Many more people never seek aid.

"Equal access to justice is a bedrock principle," said Helaine M. Barnett, president of the Legal Services Corporation. But now, "the justice gap has precipitously widened."

New York City reduced its grant for legal aid in 2008, and now, with New York State deep in the red, the 2009/2010 budget proposal of Gov. David A. Paterson would cut the entire \$8 million it gives to legal service groups.

Legal aid for the poor was a contentious political issue in the 1970s, when Congress established the Legal Services Corporation as an outgrowth of the war on poverty. Conservatives charged that liberal lawyers were trying to use legal services, like class-action lawsuits on behalf of migrant farm workers, to change social policy. Congress has restricted how Legal Service Corporation money can be used: recipient agencies cannot be involved in class-action suits or cases involving immigration, abortion or prisoners, among others. As a result, many agencies do not accept federal dollars.

Richard A. Samp, chief counsel of the Washington Legal Foundation, a conservative law firm, said that the Iolita programs amounted to "a slush fund for legal aid groups to do the kind of work the Congress has prohibited them from doing with public money."

His group argued before the Supreme Court that the programs were an illegal seizure of private income, but the court, in 2003, held otherwise, calling them justified for the public good.

Lonnie Powers, director of the Massachusetts Legal Assistance Corporation, said in response to Mr. Samp, "Iolita is a creature of the states, and the states can decide how it is spent." Some states impose their own restrictions.

The immediate financing crisis, others note, does not reflect any legislative rebuke but rather the fallout from the recession, combined with surging unemployment and foreclosures.

Donna Hawkins, 42, a receptionist at a Boston hospital, said she was always on time with the \$1,100 rent on the apartment she lives in with her husband, two grown daughters and three grandchildren. So Ms. Hawkins was stunned when two men showed up in May to tell her that the bank had foreclosed on the property and that she had to move out in 15 days.

Her story is ending happily. A legal aid lawyer who took up her case free helped her contest improper filings and expects to win a one-year lease.

But for the lawyer, Zoe K. Cronin, of Greater Boston Legal Services, the victory is bittersweet. Her agency expects to lay off 15 to 20 lawyers and paralegals this spring, and Ms. Cronin does not have seniority.

"I'm virtually certain that I'm going to be laid off," she said.