
Judiciary Committee

HB 1607

Title: An act relating to alternative means of service in forcible entry and forcible and unlawful detainer actions.

Brief Description: Providing alternative means of service in forcible entry and forcible and unlawful detainer actions.

Sponsors: Representative Rodne.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Allows for service of an unlawful detainer summons and complaint by posting a copy at the premises and mailing a copy to the defendant.

Hearing Date: 2/14/13

Staff: Caitlin Forsyth (786-5793) and Cece Clynch (786-7195).

Background:

An unlawful detainer action allows a landlord to evict a tenant who has failed to pay rent or is otherwise holding over, and regain possession of the property if the tenant does not vacate the property after being served with a notice to vacate. If the notice period passes and the tenant does not vacate or cure the default, he or she is in the status of unlawful detainer. This allows the landlord to commence the statutory unlawful detainer or eviction action by summons and complaint.

The summons and complaint in an unlawful detainer action governed by the general unlawful detainer act must be served in the same manner as summons and complaint in other actions are served. In the case of an individual this means:

- personal hand to hand service;
- abode service, by leaving a copy of the summons and complaint at the defendant's residence with a person of suitable age and discretion who is a resident therein;

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- service at the defendant's usual mailing address by leaving a copy of the summons and complaint with a person of suitable age and discretion who is a resident, proprietor, or agent thereof, plus mailing a copy by first-class mail, postage prepaid, to the defendant's usual mailing address; or
- if the plaintiff is unable to so make service, and the plaintiff has filed an affidavit with the court explaining his or her attempts at service, by publication.

In 1989, the Legislature added an additional means for service of summons and complaint in unlawful detainer actions governed by the Residential Landlord-Tenant Act (RLTA). Under the RLTA, if personal service has been attempted and has failed, service of a residential eviction summons and complaint can be alternatively accomplished by posting it on the door of the premises and sending a copy by regular and certified mail. This mode of service is also available to actions governed by the Manufactured/Mobile Home Landlord-Tenant Act.

Summary of Bill:

A plaintiff in an unlawful detainer action governed by the general unlawful detainer act, if unable to personally serve the summons, may use the posting alternative means of service. Before the plaintiff may undertake this means of service, he or she must file an affidavit with the court describing the attempts at personal service and obtain authorization by the court.

The posting alternative means of service involves: (1) posting the summons and complaint at the property where the defendant is unlawfully detained, not less than nine days from the return date in the summons; and (2) mailing copies of the summons and complaint, postage prepaid, via regular and certified mail, to the defendant's last known address.

Service accomplished by this alternative means will limit the court's jurisdiction to restoring possession of the premises to the plaintiff. No money judgment may be entered against the defendant until personal jurisdiction is obtained.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.