

HOUSE BILL REPORT

HB 1607

As Reported by House Committee On: Judiciary

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.

Brief History:

Committee Activity:

Judiciary: 2/14/13, 2/21/13 [DP].

Brief Summary of Bill

- Allows for service of an unlawful detainer summons and complaint by posting a copy at the premises and mailing a copy to the defendant.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Hope, Jinkins, Kirby, Klippert, Nealey, Orwall, Roberts and Shea.

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

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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;
- 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 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.

Staff Summary of Public Testimony:

(In support) This bill provides for an alternative means of service in commercial unlawful detainer actions. This bill ensures protections for the defendant in that a money judgment cannot be entered against the defendant; the bill is limited to restoring the premises to the commercial landlord. This bill should garner wide bipartisan support. It is unexplainable why the commercial unlawful detainer provisions were not amended at the same time the RLTA was amended to allow this alternative means of service. Currently, the only means of service available for commercial landlords, other than personal service, is service of summons by publication. Publication is expensive and probably rarely gives actual notice to the defendant. Service by publication is confusing because it is unclear whether service is accomplished with one publication or whether publication of the summons must run the duration of six weeks. This alternative service procedure has worked well for residential unlawful detainer actions and it should work just as well for commercial unlawful detainers.

(Opposed) None.

Persons Testifying: Representative Rodne, prime sponsor; and Joe Puckett, Washington Multi Family Housing Association.

Persons Signed In To Testify But Not Testifying: None.