

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1077 (Delegates Wilson and Mitchell)
Environmental Matters

Real Property - Landlord and Tenant - Service of Process

This bill authorizes a constable or sheriff, in an action by a landlord for repossession of premises from a tenant of a multiple unit property, to serve process by affixing an attested copy of the summons conspicuously on the property or on the common area entrance of a multiple unit property. This method of serving process is conclusively presumed to be sufficient to support the repossession or restitution of the premises in the following actions: failure to pay rent, holding over, and breach of lease.

Fiscal Summary

State Effect: Any impact on the District Court can likely be handled with existing budgeted resources.

Local Effect: The bill facilitates service of process and likely results in fewer instances of fees being returned.

Small Business Effect: Minimal.

Analysis

Current Law: When a tenant fails to pay rent, the landlord is entitled to repossession of the premises through filing an action in District Court. No time limit is stated for when a landlord may file a complaint; however, a summons issued after a complaint is filed must direct the tenant to appear on the fifth day after the complaint is filed. If the court finds in favor of the landlord, the court must order that possession of the premises be given to the landlord within four days after trial (judgment for possession). If the judgment is in favor of the landlord and the tenant fails to pay the past-due rent and late fees within

specified timeframes, the landlord may apply for a “warrant of restitution,” which serves as the eviction order. The sheriff’s offices in Baltimore City and the counties (or constables in Baltimore County) are responsible for evictions.

A landlord of a property in which a tenant is “holding over” (the retention of possession of a leased premise past the expressed lease term) or has broken a specified lease may also file a complaint with the District Court for repossession, although the commencement of the process is somewhat different than in cases where a tenant has failed to pay rent. For example, before filing a complaint in either case, the landlord must provide written notice to the tenant of the landlord’s intent to repossess (1) one month before the expiration of the term of the lease or (2) after 30 days notice of a violation of the lease (or 14 days notice if the violation demonstrates a clear and imminent danger of serious harm).

Generally, service of process may be made within this State or, when authorized by the law of this State, outside of this State (1) by delivering to the person to be served a copy of the summons, complaint, and all other papers filed with it; (2) if the person to be served is an individual, by leaving a copy of the summons, complaint, and all other papers filed with it at the individual’s dwelling house or usual place of abode with a resident of suitable age and discretion; or (3) by mailing to the person to be served a copy of the summons, complaint, and all other papers filed with it by certified mail.

Service of process may be made by a sheriff (or constable in Baltimore County) or, except as otherwise provided, by a competent person age 18 or older, including an attorney of record, but not by a party to the action. All process requiring execution other than delivery, mailing, or publication must be executed by the sheriff of the county where execution takes place, unless the court orders otherwise.

If, for any reason personal service cannot be made, the constable or sheriff must affix an attested copy of the summons conspicuously on the property. After specified notice is given, the affixing of the summons on the property is presumed to be a sufficient service to support restitution.

County sheriffs are entitled to collect fees for service of process and other actions during court proceedings involving the sheriff’s office. These fees include a \$5 charge for each summons mailed to a tenant and a \$40 charge for personal service of paper not including an execution or attachment. If the sheriff is unable to serve a paper, 50% of the fee must be refunded to the party requesting the service.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): City of Bowie, Baltimore City, Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2014
mm/kdm

Analysis by: Joshua A. Lowery

Direct Inquiries to:
(410) 946-5510
(301) 970-5510