Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 93 (Senator Norman)
Judicial Proceedings

Real Property - Wrongful Detainer Actions - Counterclaims and Cross-Claims

This bill repeals a prohibition against filing a counterclaim or cross-claim in an action for wrongful detainer. Thus, the bill authorizes the filing of a counterclaim or cross-claim by an individual who has been accused of wrongfully being in possession of property.

Fiscal Summary

State Effect: General fund expenditures increase by approximately $10,100 in FY 2019 only. Revenues are not materially affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	$0	$0	$0	$0	$0
GF Expenditure	10,100	0	0	0	0
Net Effect	($10,100)	$0	$0	$0	$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect the circuit courts or local finances or operations.

Small Business Effect: None.

Analysis

Current Law: "Wrongful detainer" means to hold possession of real property without the right to do so. State law does not authorize counterclaims or cross-claims in wrongful detainer actions.

A wrongful detainer action is not available if (1) the person in actual possession of the property has been granted possession under a court order; (2) a remedy is available under general landlord and tenant law; or (3) any other exclusive means to recover possession is provided by statute or rule.

If a person holds possession of a property to which he or she is not entitled, a person claiming possession may file a complaint, in writing, with the District Court of the county in which the property is located. Once the court receives a complaint, the court must summon the person in possession of the property, with specified notice, to show why the court should not restore possession of the property to the person who filed the complaint (the plaintiff).

If the court determines that the plaintiff is entitled to the property, the court must enter a "judgment for restitution" and instruct the sheriff to return possession of the property to the plaintiff. The court may also award damages to the plaintiff for the wrongful detainer, court costs, and attorney's fees, if a claim for damages was included in the complaint and the court finds that specified notice and jurisdiction requirements were met.

Either party may appeal the decision to the circuit court for the county where the property is located within 10 days of the decision of the District Court. In that case, the person in actual possession of the property may remain there until the appeal is decided if he or she (1) files an affidavit that the appeal is not taken for delay and (2) files a bond conditioned on diligent prosecution of the appeal or pays to the original plaintiff or into the court:

- the fair rental value of the property for the entire period of possession up to the date of judgment;
- all court costs in the case;
- all other losses or damages as determined by the court; and
- the fair rental value of the property during the appeal.

The circuit court must set a date for a hearing within specified time limits and meet specified notice requirements. If the circuit court decides in favor of the original plaintiff, the court must instruct the sheriff to immediately return possession of the property to the original plaintiff.

Background: Defenses in a wrongful detainer case are limited, and any claims against the plaintiff are generally filed in a separate civil action. The Administrative Office of the Courts (AOC) advises that 2,795 wrongful detainer actions were filed in fiscal 2017.

State and Local Expenditures: General fund expenditures increase by an estimated $10,070 in fiscal 2019 for the Judicial Information System to implement programing

changes as a result of the bill's requirements. The District Court can handle any additional hearings due to the bill's requirements with existing resources.

Additionally, according to AOC, authorizing a counterclaim or cross-claim in a wrongful detainer action may require additional clerical and court time. The number of appeals filed may also increase under the bill. Any such impact is not anticipated to be significant and can be handled with existing resources.

Additional Information

Prior Introductions: SB 377 of 2017 received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 1206, received an unfavorable report from the House Environment and Transportation Committee.

Cross File: None.

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

Fiscal Note History: First Reader - January 9, 2018
nb/kdm

Analysis by: Nathan W. McCurdy

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