

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1329

(Delegate Beidle)

Environment and Transportation

Judicial Proceedings

Landlord and Tenant - Action for Repossession of Nonresidential Property -
Service of Process

This bill specifies that, in an action to repossess nonresidential property, service of process on a tenant (1) must be directed to the sheriff of the appropriate county or municipality, and (2) on plaintiff's request, may be directed to any person authorized under the Maryland Rules to serve process.

Fiscal Summary

State Effect: The bill is not anticipated to impact State operations or finances.

Local Effect: The bill is not anticipated to impact local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Failure to Pay Rent

Whenever the tenant fails to pay the rent when due, the landlord may file a complaint for repossession for failure to pay rent. Generally, the landlord must file a written complaint, including specified information in the District Court of the county where the property is located.

The District Court must issue a summons, directed to any constable or sheriff of the county entitled to serve process, ordering the constable or sheriff to notify the tenant to appear before the District Court to answer the landlord's complaint. The constable or sheriff must serve the summons on the tenant, assignee, or subtenant, or their known or authorized agent. If personal service is requested, and any of the persons the sheriff must serve is found on the property, the constable or sheriff must serve the person. If personal service is requested and none of the persons the sheriff is directed to serve are found on the property, the constable or sheriff must affix an attested copy of the summons conspicuously on the property. In all cases where personal service is not requested, the constable or sheriff must affix an attested copy of the summons conspicuously on the property.

Notwithstanding other service of process requirements, in Wicomico County, in an action to repossess any premises, service of process on a tenant may be directed to any person authorized under the Maryland Rules to serve process.

Generally, affixing of the summons to the property after providing notification to the tenant, assignee, or subtenant by first-class mail is presumed to be a sufficient service to support the entry of a default judgment for *possession of the premises* in favor of the landlord. However, affixing the summons may not be considered sufficient service to support a default judgment in favor of the landlord for the *amount of rent due*.

In the case of a nonresidential tenancy, if the court finds that there was such service of process or submission to the jurisdiction of the court as would support a judgment in contract or tort, the court may also give judgment in favor of the landlord for (1) the amount of rent and late fees determined to be due; (2) costs of the suit; and (3) reasonable attorney's fees, if the lease agreement authorizes the landlord to recover attorney's fees.

Service of Process under the Maryland Rules

Generally, under the [Maryland Rules](#), service is made upon an individual by serving the individual or an agent authorized by appointment or by law to receive service of process for the individual. Service is made upon a corporation by serving its resident agent, president, secretary, or treasurer. However; if the corporation has no resident agent, or a good faith effort to serve the resident agent or the specified corporate officers has failed, service may be made upon other corporate officers and persons expressly or impliedly authorized to receive service of process. Service may also be made upon a corporation or other entity that is required by statute to have a resident agent by serving two copies of the summons, complaint, and other filed papers upon the State Department of Assessments and Taxation (SDAT) if (1) the entity has no resident agent; (2) the resident agent is dead or is no longer at the address maintained by SDAT; or (3) two good faith attempts on separate days to serve the resident agent have failed.

Background: The Administrative Office of the Courts advises that, in fiscal 2017, there were a total of 641,429 actions for repossession for failure to pay rent filed in the District Court.

Small Business Effect: The bill may result in small business nonresidential tenants, who had previously avoided personal services sufficient to support a default judgment in favor of the landlord for the amount of rent due, being held liable for past-due rent. Landlords who qualify as small businesses may be more easily able to serve nonresidential tenants and may be able to recover past-due rent from nonresidential tenants under a default judgment.

Additional Information

Prior Introductions: HB 1550 of 2017, a similar bill, was withdrawn.

Cross File: SB 1102 (Senators Cassilly and Norman) - Judicial Proceedings.

Information Source(s): Baltimore City; Harford and Prince George's counties; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2018
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