

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1014

(Senator Conway)

Judicial Proceedings

Real Property - Expedited Wrongful Detainer Proceedings - Property for Sale or Lease

This bill establishes a an expedited process for wrongful detainer actions if the property that is the subject of the complaint is, at the time of the complaint, advertised for sale or lease or listed for sale or lease on a local multiple listing service. The bill also makes conforming changes.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances. Operations may be affected, as discussed below.

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

Small Business Effect: None.

Analysis

Bill Summary: The bill requires the District Court to immediately summon the person in actual possession of the property to appear before the court at a hearing no more than five days after the filing of the complaint. If the person in actual possession cannot be found, the person authorized to serve process must affix an attested copy of the summons conspicuously on the property. The District Court must issue a ruling on the complaint within two days of the hearing.

The bill authorizes either party to appeal the judgment of the District Court to the circuit court for the county in which the property is located within two days after the District Court enters a judgment. If an appeal is sought, the circuit court must set a hearing date within three days and must immediately serve, in person, notice of the order for the hearing on the parties or the parties' counsel. The judgment of the circuit court must be issued within two days after the hearing.

If the District Court, or the circuit court in the event of an appeal, rules in favor of the complainant, a warrant must be issued by the court to the sheriff within 24 hours after the ruling. The sheriff must then immediately execute the warrant and return the property to the complainant.

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 2,270 wrongful detainer actions were filed in fiscal 2016.

State and Local Expenditures: According to AOC, establishing an expedited procedure for wrongful detainer cases under the bill will not have fiscal impact on the courts but will have a significant operational impact. Certain jurisdictions that rely on the paper transmission of records from the District Court to the circuit courts may not be able to meet the expedited timeline established under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2017
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