

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1612 (Delegate Rosenberg, *et al.*)  
Environment and Transportation

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Real Property - Wrongful Detainer - Emergency Hearing on Lease Agreement

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This bill requires the District Court, on motion of either party, to hold an emergency hearing to determine the legitimacy of a lease agreement related to a property in dispute and subject to a wrongful detainer action.

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Fiscal Summary

**State Effect:** While the bill may increase the number of hearings held by the District Court, any increase is anticipated to be minimal and can likely be handled with existing resources. Revenues are not materially affected.

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

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** “Wrongful detainer” means to hold possession of real property without the right to do so. 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

*immediately* summon the person in possession of the property to appear before the court on the day specified in the summons 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 no less than 5 days or more than 15 days after the application for appeal 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:** The Administrative Office of the Courts (AOC) advises that 2,795 wrongful detainer actions were filed in fiscal 2017. AOC advises that, as wrongful detainer is a possessory action, the intent is to resolve any dispute quickly. Cases are typically scheduled to occur approximately 14 days after the complaint is filed. AOC assumes that the bill requires a hearing to be held *before* the full hearing on the merits of the complaint; however, AOC advises that it is not aware of any definition of, or standards for, an “emergency hearing.”

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### **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 - March 4, 2018  
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