

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1269 (Delegate Rosenberg)
Environment and Transportation

Real Property - Wrongful Detainer - Emergency Hearing on Lease Agreement

This bill authorizes an owner of a property adjoining a property in dispute to file a wrongful detainer action in the District Court of the county in which the property is located, if the adjoining property has been negatively impacted by the alleged wrongful detainer. When a complaint is filed by an owner of an adjoining property, the bill requires the court to summons immediately both the person in possession of the property as well as the owner of record of the property to determine rightful possession. The bill requires the District Court, on motion of any party, to hold an emergency hearing to determine the legitimacy of a lease agreement related to a property in dispute. The bill also makes technical, clarifying, and conforming changes.

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.

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.

Subject to specified provisions of the Real Property Article related to the use of an escrow account in a wrongful detainer action, a party to a wrongful detainer action brought in the District Court may demand a trial by jury in accordance with Title 8, Subtitle 6 of the Real Property Article, which pertains to demands for a jury trial in a landlord tenant action.

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 2,859 wrongful detainer actions were filed in fiscal 2018. 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.”

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mm/kdm

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