

SENATE BILL REPORT

HB 1607

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, February 20, 2014

Title: An act relating to alternative means of service in forcible entry and forcible and unlawful detainer actions.

Brief Description: Providing alternative means of service in forcible entry and forcible and unlawful detainer actions.

Sponsors: Representative Rodne.

Brief History: Passed House: 2/05/14, 98-0.

Committee Activity: Financial Institutions, Housing & Insurance: 2/20/14 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass.

Signed by Senators Angel, Co-Chair; Hobbs, Co-Chair; Benton, Vice Co-Chair; Mullet, Vice Co-Chair; Fain, Hatfield, Nelson and Roach.

Staff: Alison Mendiola (786-7483)

Background: In residential and commercial tenancies, an unlawful detainer action allows a landlord to evict a tenant who has failed to pay rent or is otherwise holding over, and regain possession of the property if the tenant does not vacate the property after being served with a notice to vacate. If the tenant fails to vacate the premises or cure the default within a specific period of time, the landlord can then initiate the statutory unlawful detainer process or eviction action by summons and complaint.

A statutory process is provided for unlawful detainers under Chapter 59.12 RCW – general, Chapter 59.18 RCW – Residential Landlord-Tenant Act (RLTA), and Chapter 59.20 RCW – Manufactured/Mobile Home Landlord-Tenant Act (MHLTA). The statutes provide that the individual being served a summons and complaint must be served by the following:

- personal hand-to-hand service;
- abode service, by leaving a copy of the summons and complaint at the defendant's residence with a person who is a resident of suitable age and discretion;
- service at the defendant's usual mailing address by leaving a copy of the summons and complaint with a person of suitable age and discretion who is a resident,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- proprietor, or agent of the defendant, plus mailing a copy by first-class mail, postage prepaid, to the defendant's usual mailing address; or
- if the plaintiff is unable to serve the defendant, and the plaintiff has filed an affidavit with the court explaining the plaintiff's attempts at service, by publication.

In 1989 the Legislature added an additional means for service of summons and complaint in unlawful detainer actions governed by the RLTA. Under the RLTA, if personal service has been attempted and failed, service of a residential eviction summons and complaint can be alternatively accomplished by posting it on the door of the premises and sending a copy by regular and certified mail. In 1997 this alternative method of service was added to the MHLTA.

Summary of Bill: A plaintiff in an unlawful detainer action governed by the general unlawful detainer act, if unable to personally serve the summons, may use the posting alternative means of service. Before the plaintiff may undertake this means of service, the plaintiff must file an affidavit with the court describing the attempts at personal service and obtain authorization by the court.

The posting alternative means of service involves (1) posting the summons and complaint at the property unlawfully detained, not less than nine days from the return date in the summons, and (2) mailing copies of the summons and complaint, postage prepaid, via regular and certified mail, to the defendant's last known address.

Service accomplished by this alternative means will limit the court's jurisdiction to restoring possession of the premises to the plaintiff. No money judgment may be entered against the defendant until personal jurisdiction is obtained.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Some multi-family units have commercial spaces. Under the RLTA and the MHLTA, you are allowed to get permission from the court to do alternative service. This process should be the same under general unlawful detainers, which includes commercial rentals.

Persons Testifying: PRO: Joe Puckett, WA Multi-Family Housing Assn.