

HOUSE BILL REPORT

SHB 2389

As Passed House:
February 13, 2024

Title: An act relating to service of notice by mail in cases involving forcible entry and forcible and unlawful detainer.

Brief Description: Addressing service of notice by mail in cases involving forcible entry and forcible and unlawful detainer.

Sponsors: House Committee on Housing (originally sponsored by Representatives Abbarno and Barkis).

Brief History:

Committee Activity:

Housing: 1/25/24, 1/30/24 [DPS].

Floor Activity:

Passed House: 2/13/24, 97-0.

Brief Summary of Substitute Bill

- Amends the portions of RCW 59.12.040 having to do with service by mail, how such service is made, and when it is deemed complete.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Hutchins, Low, Reed and Taylor.

Staff: Austin Borcharding (786-7094).

Background:

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

In cases involving forcible entry and unlawful detainer, where service of notice is required, such service must be made as follows:

- by delivering a copy personally to the person entitled thereto; or
- if he or she be absent from the premises unlawfully held:
 - by leaving there a copy, with some person of suitable age and discretion; and
 - sending a copy through the mail addressed to the person entitled thereto at his or her place of residence.

If the person to be notified is a tenant or an unlawful holder of premises, and his or her place of residence is not known, or if a person of suitable age and discretion cannot be found there, then service may also be made as follows:

- by affixing a copy of the notice in a conspicuous place on the premises unlawfully held; and
- also delivering a copy to a person there residing, if such a person can be found; and
- also sending a copy through the mail addressed to the tenant, or unlawful occupant, at the place where the premises unlawfully held are situated.

When a copy of notice is sent through the mail for the purposes described above, service is deemed complete when the notice is deposited in the United States mail in the county in which the property is situated properly addressed with postage prepaid.

Summary of Substitute Bill:

The service of notice requirements in cases regarding forcible entry and unlawful detainer cases are modified in circumstances where the person who is being notified is absent from the premises.

As amended, service would require sending a copy by certified mail to the last known address of the person (current law requires sending a copy through the mail addressed to the person at the person's place of residence).

Service of notice would be considered complete when the notice is deposited in the United States mail, with postage prepaid, by certified mail addressed to the last known address of the person. It is no longer required that the notice be mailed from within the county in which the property is situated; however, service of notice must be posted from inside Washington.

When service of notice is had by mail, five additional days are provided before the action in reference to the notice may commence.

Where applicable, a termination notice must include the date by which the intended recipient must comply or vacate the premises.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The main issue is, for example, mailing a notice from one side of the street in regard to a property on the other side of the street, but where the two properties happen to sit in different counties—although service was "perfected," the case is thrown out due to the "same county" language currently contained in the statute. This bill modernizes the language to avoid this issue.

This bill brings the service requirements up to modern communication standards. Specifically, certified mail provides accountability and transparency.

(Opposed) The main concern is that this bill pertains to eviction actions. It focuses on notice in particular, and that notice gives the tenant "notice" that if they do not comply, they can get evicted. This gives the tenant the opportunity to comply and avoid an eviction. This bill gives the landlord the ability to begin the eviction notice from anywhere in the world. Same county language in the old law was used previously to ensure that the tenant actually received the notice in a timely fashion so that they had a chance to comply. This bill does not adequately account for the reducing effect this bill would have on the time the tenant would have to comply.

Persons Testifying: (In support) Representative Peter Abbarno, prime sponsor; and Jim Henderson, National Association of Residential Property Managers and Benton Franklin County Rental Owners Association.

(Opposed) Edmund Witter, King County Bar Association.

Persons Signed In To Testify But Not Testifying: None.