



HOUSE BILL 706: Landlord/Tenant-Alias & Pluries Summary Eject.

2017-2018 General Assembly

Committee:	House Judiciary III	Date:	April 19, 2017
Introduced by:	Reps. Jordan, Bradford, Earle	Prepared by:	Kristen L. Harris Committee Co-Counsel
Analysis of:	PCS to First Edition H706-CSTU-9		

OVERVIEW: *The Proposed Committee Substitute to House Bill 706 would allow a plaintiff to request that a claim for summary ejectment be severed from a claim for monetary damages and provide a new method of service of process in summary ejectment proceedings.*

[The PCS removes the requirement that small claims court be held at least twice a week in every judicial district.]

CURRENT LAW: Jurisdiction over a defendant in a small claim summary ejectment case may be obtained in four ways: 1) by delivering a copy of the summons and complaint to the defendant or leaving copies at the defendant's house with a person of suitable age and discretion residing there, 2) by registered or certified mail, signature confirmation, or designated service as provided under the North Carolina Rules of Civil Procedure, 3) by the defendant's written acceptance of service or voluntary appearance, or 4) by sheriff as provided in G.S. 42-29.

BILL ANALYSIS:

Section 1 would do the following:

- Require a magistrate to allow a plaintiff's request to sever a claim for summary ejectment from a claim for monetary damages where 1) service of process was achieved solely by first-class mail and affixing the summons and complaint to the defendant's last known address and 2) upon a finding that personal service was not achieved on one or more defendants.
- Allow the plaintiff to continue with his or her summary ejectment claim and extend the claim for monetary damages through an alias and pluries summons.

Section 2 would no longer require unexecuted summons and other processes in summary ejectment actions to be served by an officer.

Section 3 would allow a plaintiff, in counties with 200,000 or more residents as of the most recent decennial federal census, to elect to have the clerk either 1) return the summons to the plaintiff or 2) forward it to the sheriff for service.

Subsection 4 would do the following:

- Define the terms "process server" and "officer".
- Allow service for summary ejectment proceedings in counties with 200,000 or more residents as of the most recent decennial federal census to be executed by a process server and not just an officer.

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House PCS 706

Page 2

EFFECTIVE DATE: This act becomes effective October 1, 2017, and applies to actions for summary ejection filed on or after that date.

BACKGROUND: According to the most recent decennial federal census, Buncombe, Cumberland, Durham, Forsyth, Gaston, Guilford, Mecklenburg, New Hanover, Union, and Wake counties have 200,000 or more residents.