



SENATE BILL 88: Landlord/Tenant-Alias & Pluries Summary Eject.

2017-2018 General Assembly

Committee:		Date:	August 17, 2017
Introduced by:		Prepared by:	Amy Darden Staff Attorney
Analysis of:	S.L. 2017-143		

OVERVIEW: *S.L. 2017-143 allows a plaintiff to request that a claim for summary ejectment be severed from a claim for monetary damages where there is no personal service of process. It also codifies that a party in a small claim action or in an action appealed for a trial de novo in district court is not required to be represented by an attorney. This act became effective October 1, 2017.*

CURRENT LAW: Jurisdiction in a small claims court 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) in summary ejectment cases only, by sheriff as provided in G.S. 42-29.

Summary ejectment cases can be appealed from small claims court by requesting a trial de novo in district court. Currently, business entities are required to be represented by attorneys at the district and superior court level. Small claims court is exempt from this requirement.

BILL ANALYSIS:

Section 1 of the act does the following:

- Requires 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 premises at the defendant's last known address and 2) upon a finding that personal service was not achieved on one or more defendants.
- Allows 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 of the act codifies that a party in a small claim action is not required to be represented by an attorney and provides that any party in an action appealed for a trial de novo in district court is not required to be represented by an attorney.

Section 3 of the act allows service of process to be made by a third-party process agent where claims for monetary damages are severed by a magistrate from claims seeking summary ejectment.

EFFECTIVE DATE: This act became effective October 1, 2017.

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Director



Legislative Analysis
Division
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