



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

2017-2018 General Assembly

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| Committee: | House Judiciary III. If favorable, re-refer to Rules, Calendar, and Operations of the House | Date: | June 14, 2017 |
| Introduced by: | Sen. Randleman | Prepared by: | Kristen L. Harris |
| Analysis of: | Second Edition | | Committee Co-Counsel |

OVERVIEW: *Senate Bill 88 would 1) allow 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 and 2) codify that a party in a small claim action is not required to be represented by an attorney and that a party in an action appealed for a trial de novo in district court is not required to be represented by an attorney.*

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

Summary ejectment cases can be appealed from small claim 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 claim court is exempt from this requirement.

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 premises at 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 codify that a party in a small claim action is not required to be represented by an attorney and provide 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: would allow 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 becomes effective October 1, 2017.

*Staff attorney Amy Darden contributed to this summary.

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