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House Bill 4998 (as passed by the House)
Sponsor: Representative Kurt Heise
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 12-4-12

CONTENT

The bill would amend Chapter 57 (Summary Proceedings to Recover Possession of Premises) of the Revised Judicature Act to do the following:

- **Prohibit a court from limiting the number of summary proceeds that could be set for hearing at the same time or that a person could file or schedule for hearing at any one time.**
- **Specify how a copy of a summons could be served on the defendant.**
- **Require a claim for rent due because of a breach of lease to include all rent due through the end of the rental period.**

Number of Proceedings

Chapter 57 provides for civil actions in district court or a municipal court to recover the possession of premises and obtain certain ancillary relief. The court in which a summary proceeding is commenced must issue a summons ordering the defendant to appear for trial within 10 days after the summons is issued (or within 30 days in certain cases involving forfeiture of a contract to purchase). Except as otherwise provided by court rule, a summary proceeding must be heard within seven days after the defendant's appearance or trial date, and generally may not be adjourned beyond that date except on stipulation of the parties.

Under the bill, a court, magistrate, district court clerk, or other court employee could not limit the number of summary proceedings that could be set for a hearing at the same time on the same date or that a person could concurrently file or schedule for hearing at any one time.

Service of the Summons

The bill would allow a copy of a summons and complaint in a summary proceeding to be served on the defendant by mail and one of the following:

- Service on the defendant by any method provided in court rules for the service of process in a civil action.
- After three attempts at personal service, secure attachment of the papers to the main entrance of the defendant's dwelling unit.

Unless the court mailed the summons and complaint and kept a record, the plaintiff would have to mail the summons and complaint by first-class mail and obtain a certificate of mailing. The certificate would be proof of service.

A return of service made under the provision allowing attachment of papers to the main entrance of the defendant's dwelling unit would have to list the attempts at personal service. Service by the attachment method would be effective only if a return of service were filed showing that, after three attempts, personal service could not be made.

Claims for Rent Due

Chapter 57 allows a party to summary proceedings to join claims and counterclaims for money judgment for damages attributable to certain factors, including breach of the lease or contract under which the premises were held. Under the bill, if a claim for money judgment included a claim for rent due because of breach of the lease or contract under which the premises were held, the claim for rent due would have to include all rent due through the end of the rental period at the time of trial. The amount due for rent could not be prorated through the date of the trial.

MCL 600.5732 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The prohibition against limiting the number of summary proceedings that could be filed or heard at once could result in marginally increased caseload for local courts and thereby an associated marginal increase in administrative costs.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.