2020 South Dakota Legislature

House Bill 1067

SENATE JUDICIARY ENGROSSED

Introduced by: ***Representative*** *Reed*

An Act to modify certain provisions regarding notice, service, and execution of judgments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That a NEW SECTION be added:

15-9-7.1. Service--Publication--Exemption.

A plaintiff may initiate service by publication under § 15-9-7 on the same day as the first attempt at service under § 21-16-6 without prior approval from the court. A plaintiff shall only be required to provide service by publication once pursuant to § 21-16-6.

Publication under this section shall be made in a legal newspaper printed in the county where the subject property or some part of the property is situated, or as allowed by § 17-2-10.

A plaintiff who provides notice by publication under this section is exempt from the requirements of § 15-9-17.

Section 2. That § 21-16-6 be AMENDED:

21-16-6. Verified Complaint--Service with Summons--Procedure.

The complaint ~~must~~ shall be in writing and verified by the plaintiff or ~~his~~ the plaintiff's agent or signed by ~~his~~ the plaintiff's attorney, and served with a summons~~, and the procedure, except as otherwise provided, shall be the same as in other actions in the court where the action is pending~~. A sheriff, any person legally authorized to effect service under § 15-6-4(c), or constable of the county shall attempt to serve a lessee, subtenant, or party in possession with a minimum of two service attempts. Each attempt shall be at least one week apart and both attempts shall be within thirty days.

On the second service attempt, the summons may be posted in a conspicuous place on the property and delivered to a person there residing, if such person can be found, and

also sent by first class mail addressed to the tenant at the place where the property is situated.

Section 3. That § 21-16-7 be AMENDED:

21-16-7. Appearance--Defendant.

The time for appearance and pleading shall be four days from the time of service on the defendant ~~and no~~ or thirty days after the publication of service under § 15-9-7.1, whichever occurs sooner. No adjournment or continuance shall be made for more than ~~five~~ fourteen days, unless the defendant applying therefor shall give an undertaking to the plaintiff with good and sufficient surety to be approved by the court, conditioned for the payment of the rent that may accrue, together with costs if judgment be rendered against the defendant.

Section 4. That § 21-16-10 be AMENDED:

21-16-10. Judgment--Plaintiff.

If the finding of the court or the verdict of the jury be in favor of the plaintiff, the judgment shall be for the delivery of possession to the plaintiff, and for rents and profits or damages, including those authorized by § 21-3-8, where the same are claimed in the complaint, and for costs.