

ENROLLED

HB441, Engrossed 1

2023 Legislature

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An act relating to removal of unknown parties in possession; amending s. 48.184, F.S.; revising requirements for service on unknown parties in possession; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 48.184, Florida Statutes, is amended to read:

48.184 Service of process for removal of unknown parties in possession.—

(1) This section applies only to actions governed by s. 82.03, s. 83.21, s. 83.59, or s. 723.061 and only to the extent that such actions seek relief for the removal of an unknown party or parties in possession of real property. The provisions of this section are cumulative to other provisions of law or rules of court about service of process, and all other such provisions are cumulative to this section.

(2) A summons must be issued in the name of "Unknown Party or Parties in Possession" when the name of an occupant or occupants of real property is not known to the plaintiff and the property may be or is known to be occupied by an ~~the~~ unknown party ~~is identified in the complaint and summons. A separate summons must be issued for each such unknown occupant.~~

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26 (3) The plaintiff shall attempt to serve the summons on
27 any unknown occupant of the property described in the summons
28 and complaint. If service on the unknown occupant or occupants
29 is not effectuated on the first attempt, at least two additional
30 attempts must be made. The three attempts to obtain service must
31 be made once during business hours, once during nonbusiness
32 hours, and once during a weekend. The process server shall make
33 an inquiry as to the name of the unknown occupant or occupants
34 at the time of service. The return of service must note the name
35 of every ~~the~~ occupant if obtained by the process server or state
36 that the name of the occupant or occupants could not be obtained
37 after inquiry. If the name of an ~~the~~ occupant becomes known to
38 the plaintiff through the return of service or otherwise,
39 without notice or hearing thereon, all subsequent proceedings
40 must be conducted under the true name of such occupant and all
41 prior proceedings are deemed amended accordingly.

42 (4) Service of process must also be made on unknown
43 occupants by both of the following means:

44 (a) By attaching a copy of the summons and complaint to a
45 conspicuous location on the premises involved in the
46 proceedings.

47 (b) Upon issuance of the summons, by the plaintiff
48 providing the clerk of the court with one additional copy of the
49 summons and complaint for each unknown occupant and a prestamped
50 envelope for each unknown occupant addressed to the unknown

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51 | occupant at the address of the premises involved in the
52 | proceedings. The clerk of the court shall immediately mail a
53 | copy of the summons and complaint by first-class mail, note the
54 | fact of mailing in the docket, and file a certificate in the
55 | court file of the fact and date of mailing. The clerk of the
56 | court shall charge such fees for such services as provided by
57 | law.

58 | (5) Service is effective on the unknown occupant or
59 | occupants in possession on the later of the date that personal
60 | service is made, the date of attaching the summons and complaint
61 | to a conspicuous location on the premises, or upon mailing by
62 | the clerk.

63 | (6) The judgment and writ of possession must refer to any
64 | unknown occupant in possession by name if the name is shown on
65 | the return of service or is otherwise known to the plaintiff. If
66 | the name of any unknown occupant in possession is not shown on
67 | the return of service or otherwise known to the plaintiff and
68 | service has been effectuated as provided in this section, the
69 | judgment and writ of possession must refer to the ~~each such~~
70 | ~~person as~~ "Unknown Party or Parties in Possession," and the writ
71 | of possession must be executed by the sheriff by dispossessing
72 | all of the occupants and placing the plaintiff in possession of
73 | the property.

74 | Section 2. This act shall take effect July 1, 2023.