

Senate Bill No. 345

Passed the Senate September 4, 2003

Secretary of the Senate

Passed the Assembly September 3, 2003

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 1954 of the Civil Code, to amend Section 1161.2 of, and to repeal and add Section 1166 of, the Code of Civil Procedure, and to amend Section 34328.1 of the Health and Safety Code, relating to tenancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 345, Kuehl. Tenancy.

(1) Existing law regulates the times and circumstances under which a landlord may enter a tenant's dwelling.

This bill would specify additional information to be included in the notice that a landlord is required to give prior to entry. The bill would provide that oral notice is sufficient under certain circumstances, and specify information that the oral notice is required to include, and that the entry that is being noticed be within one week.

(2) In a summary proceeding for the possession of real property, as specified, existing law prohibits a court clerk from providing access to certain court records for 60 days following the date the complaint is filed, except as specified. These provisions require that the court clerk mail a specified notice to a defendant named in an eviction action. Existing law permits a court to exempt itself from these provisions upon a specified finding and requires the Judicial Council to examine the extent to which ex parte requests for court documents are granted or denied.

This bill would prohibit access to those court records if a defendant is the prevailing party within 60 days after the complaint is filed, eliminate the ability of a court to exempt itself from these provisions and eliminate the duty placed on the Judicial Council with respect to requests for court records.

(3) Existing law requires a plaintiff in a summary proceeding for the possession of real property, as specified, to include certain information in a verified complaint.

This bill would as of January 1, 2005, revise the information that a plaintiff must include in a verified complaint to include the name of the person verifying the complaint, as specified, and to state the method used to serve the defendant with a notice of termination, as specified, among other items. The bill would also require the



plaintiff in an action regarding residential property to attach specified documents to the complaint, with specified exceptions.

(4) Existing law requires every local housing authority within a county or city to file on the first day of October of each year with the Department of Housing and Community Development a complete report of its activities during the previous fiscal year, with specified recommendations.

This bill would require the report to include specified information on terminations of tenancies of victims of domestic violence in housing authority units.

By increasing the duties of local officials, this bill would create a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 1954 of the Civil Code is amended to read:

1954. (a) A landlord may enter the dwelling unit only in the following cases:

(1) In case of emergency.

(2) To make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors or to make an inspection pursuant to subdivision (f) of Section 1950.5.

(3) When the tenant has abandoned or surrendered the premises.

(4) Pursuant to court order.



(b) Except in cases of emergency or when the tenant has abandoned or surrendered the premises, entry may not be made during other than normal business hours unless the tenant consents to an entry during other than normal business hours at the time of entry.

(c) The landlord may not abuse the right of access or use it to harass the tenant.

(d) (1) Except as provided in subdivision (e), or as provided in paragraph (2) or (3), the landlord shall give the tenant reasonable notice in writing of his or her intent to enter and enter only during normal business hours. The notice shall include the date, approximate time, and purpose of the entry. The notice may be personally delivered to the tenant, left with someone of a suitable age and discretion at the premises, or, left on, near, or under the usual entry door of the premises in a manner in which a reasonable person would discover the notice. Twenty-four hours shall be presumed to be reasonable notice in absence of evidence to the contrary. The notice may be mailed to the tenant. Mailing of the notice at least six days prior to an intended entry is presumed reasonable notice in the absence of evidence to the contrary.

(2) If the purpose of the entry is to exhibit the dwelling unit to prospective or actual purchasers, the notice may be given orally, in person or by telephone, if the landlord or his or her agent has notified the tenant in writing within 120 days of the oral notice that the property is for sale and that the landlord or agent may contact the tenant orally for the purpose described above. Twenty-four hours is presumed reasonable notice in the absence of evidence to the contrary. The notice shall include the date, approximate time, and purpose of the entry. At the time of entry, the landlord or agent shall leave written evidence of the entry inside the unit.

(3) The tenant and the landlord may agree orally to an entry to make agreed repairs or supply agreed services. The agreement shall include the date and approximate time of the entry, which shall be within one week of the agreement. In this case, the landlord is not required to provide the tenant a written notice.

(e) No notice of entry is required under this section:

(1) To respond to an emergency.

(2) If the tenant is present and consents to the entry at the time of entry.

(3) After the tenant has abandoned or surrendered the unit.



SEC. 2. Section 1161.2 of the Code of Civil Procedure is amended to read:

1161.2. (a) Except as provided in subdivision (e) or (f), in any case filed under this chapter as a limited civil case, the court clerk may not allow access to the court file, index, register of actions, or other court records until 60 days after the date the complaint is filed, except pursuant to an ex parte court order upon a showing of good cause therefor by any person including, but not limited to, a newspaper publisher. However, the clerk of the court shall allow access to the court file to a party in the action, an attorney of a party in the action, or any other person who (1) provides to the clerk the names of at least one plaintiff, one defendant, and the address, including the apartment, unit, or space number, if applicable, of the subject premises, or (2) provides to the clerk the name of one of the parties or the case number and can establish through proper identification that he or she resides at the subject premises.

(b) For purposes of this section, “good cause” includes, but is not limited to, the gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code. It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subdivision (a).

(c) Except as provided in subdivision (f), upon the filing of any case so restricted, the court clerk shall mail notice to each defendant named in the action. The notice shall be mailed to the address provided in the complaint. The notice shall contain a statement that an unlawful detainer complaint (eviction action) has been filed naming that party as a defendant, and that access to the court file will be delayed for 60 days except to a party, an attorney for one of the parties, or any other person who (1) provides to the clerk the names of at least one plaintiff and one defendant in the action and provides to the clerk the address, including any applicable apartment, unit, or space number, of the subject premises, or (2) provides to the clerk the name of one of the parties in the action or the case number and can establish through proper identification that he or she lives at the subject premises. The notice shall also contain a statement that access to the court index, register of actions, or other records is not permitted until 60 days after the complaint is filed, except pursuant to an ex parte order upon a showing of good cause therefor. The notice shall contain



on its face the name and telephone number of the county bar association and the name and telephone number of an office funded by the federal Legal Services Corporation that provides legal services to low-income persons in the county in which the action is filed. The notice shall state that these numbers may be called for legal advice regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the complaint, excluding weekends and holidays. One copy of the notice shall be addressed to “all occupants” and mailed separately to the subject premises. The notice shall not constitute service of the summons and complaint.

(d) Notwithstanding any other provision of law, the court shall charge an additional fee of four dollars (\$4) for filing a first appearance by the plaintiff. This fee shall be included as part of the total filing fee for actions filed under this chapter.

(e) If a defendant prevails in the action within 60 days after the complaint is filed, the court clerk may not allow access at any time to any of the documents specified in subdivision (a).

(f) This section does not apply to a case that seeks to terminate a mobilehome park tenancy if the statement of the character of the proceeding in the caption of the complaint clearly indicates that the complaint seeks termination of a mobilehome park tenancy.

SEC. 3. Section 1166 of the Code of Civil Procedure is repealed.

SEC. 4. Section 1166 is added to the Code of Civil Procedure, to read:

1166. (a) The complaint shall:

(1) Be verified and include the typed or printed name of the person verifying the complaint.

(2) Set forth the facts on which the plaintiff seeks to recover.

(3) Describe the premises with reasonable certainty.

(4) If the action is based on paragraph (2) of Section 1161, state the amount of rent in default.

(5) State specifically the method used to serve the defendant with the notice or notices of termination upon which the complaint is based. This requirement may be satisfied by using and completing all items relating to service of the notice or notices in an appropriate Judicial Council form complaint, or by attaching a proof of service of the notice or notices of termination served on the defendant.



(b) The complaint may set forth any circumstances of fraud, force, or violence that may have accompanied the alleged forcible entry or forcible or unlawful detainer, and claim damages therefor.

(c) (1) In an action regarding residential property, the plaintiff shall attach to the complaint the following:

(A) A copy of the notice or notices of termination served on the defendant upon which the complaint is based.

(B) A copy of any written lease or rental agreement regarding the premises. Any addenda or attachments to the lease or written agreement that form the basis of the complaint shall also be attached. The documents required by this subparagraph are not required to be attached if the complaint alleges any of the following:

(i) The lease or rental agreement is oral.

(ii) A written lease or rental agreement regarding the premises is not in the possession of the landlord or any agent or employee of the landlord.

(iii) An action based solely on subdivision (2) of Section 1161.

(2) If the plaintiff fails to attach the documents required by this subdivision, the court shall grant leave to amend the complaint for a 5-day period in order to include the required attachments.

(d) Upon filing the complaint, a summons shall be issued thereon.

SEC. 5. Section 34328.1 of the Health and Safety Code is amended to read:

34328.1. (a) Every housing authority shall file on the first day of October of each year with the Department of Housing and Community Development a complete report of its activities during the previous fiscal year, with recommendations for needed legislation to carry on properly a program of housing and community development in this state.

(b) The authority shall provide the Department of Housing and Community Development funds as requested by the department to reimburse the department for the cost of processing the report required by this section.

(c) (1) The report shall include data on terminations of tenancies of victims of domestic violence in housing authority units, and terminations of Section 8 vouchers of victims of domestic violence. The data shall be included in all cases where a notice of termination was given, regardless of whether the



termination was based in whole or in part on activity related to the domestic violence, and whether the notice resulted in the victim vacating the premises or actual termination of the voucher.

(2) For each termination, the report shall briefly specify steps taken, if any, by the authority to address the situation or assist the victim prior to the termination, and, if known, the subsequent housing obtained by the victim. If no steps were taken, the authority may include an explanation of why none were deemed necessary.

(3) The report shall include data on terminations of all victims of domestic violence, as reported or known to the authority, its employees, or agents, whether or not an arrest was made or any report was filed.

(4) The report may include any other information regarding domestic violence victim terminations deemed relevant by the authority.

(5) The report required on October 1, 2004, shall include data on all cases where a notice of termination was given to the victim from January 1, 2004, to the end of the fiscal year reportable on October 1, 2004.

(6) For purposes of this section, “domestic violence” has the meaning set forth in Section 6211 of the Family Code.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 8. Section 4 of this act shall become operative January 1, 2005.



Approved _____, 2003

Governor

