

AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY APRIL 27, 2009

AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1263**

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**Introduced by Assembly Member Audra Strickland**

February 27, 2009

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An act to ~~repeal and add~~ *amend* Section 1162 of the Code of Civil Procedure, relating to unlawful detainer.

LEGISLATIVE COUNSEL'S DIGEST

AB 1263, as amended, Audra Strickland. Unlawful detainer: service of notice.

Existing law governs unlawful detainer proceedings to effect the removal of a tenant from the property. Existing law specifies the manner of serving notice upon a tenant under those circumstances. Existing law requires service of the notice by delivering a copy to the tenant personally. If the tenant is absent from his or her place of residence, and from his or her usual place of business, existing law provides that notice may be served by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his or her place of residence. If the residence and business cannot be ascertained, or a person of suitable age and discretion there cannot be found, existing law authorizes the notice to be served by affixing a copy in a conspicuous place on the property and delivering a copy to the person there residing, if that person can be found, and by sending a copy through the mail addressed to the tenant at the place where the property is situated.

This bill would revise the provision governing the methods of serving notice upon a tenant for purposes of the unlawful detainer provisions by deleting the requirement that service be made at the tenant’s place of residence or usual place of business. The bill would instead require that service be made by (1) delivering a copy of the notice to the tenant personally, (2) leaving a copy of the notice at the property with a person of suitable age and discretion and mailing a copy of the notice to the tenant at the address of the property *and at an alternate address designated in writing by the tenant and accepted in writing by the landlord*, or (3) affixing a copy of the notice in a conspicuous place on the property and mailing a copy of the notice to the tenant at the address of the property *and the alternate address, if the process server attests under penalty of perjury that he or she was unable to serve the tenant, using reasonable diligence, by the other 2 methods.* ~~The bill would define the term “property,” for purposes of these provisions, to refer to the property that is the subject of the lease. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.~~

*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.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

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

1     SECTION. 1. Section 1162 of the Code of Civil Procedure is  
2     amended to read:  
3     1162. The notices required by Sections 1161 and 1161a may  
4     be served, ~~either~~ by any of the following methods:  
5     ~~±.~~  
6     (a) By delivering a copy to the tenant personally; ~~or,~~  
7     ~~2.~~  
8     (b) ~~If he or she the tenant is absent from his or her place of~~  
9     ~~residence, and from his or her usual place of business, the property,~~  
10    by leaving a copy with ~~some~~ a person of suitable age and discretion  
11    ~~at either place, the property,~~ and sending a copy through the mail

1 addressed to the tenant at ~~his or her place of residence; or, the~~  
2 *property and to any one alternate location specified in writing by*  
3 *the tenant for these purposes, and acknowledged in writing by the*  
4 *landlord.*

5 3.

6 (c) ~~If such place of residence and business can not be~~  
7 ~~ascertained, or a person of suitable age or discretion there can not~~  
8 ~~be found, service cannot be achieved by the methods described in~~  
9 ~~subdivisions (a) and (b), and the process server attests, under~~  
10 ~~penalty of perjury, that he or she has used reasonable diligence~~  
11 ~~in attempting service, then by affixing a copy in a conspicuous~~  
12 ~~place on the property, and also delivering a copy to a person there~~  
13 ~~residing, if such person can be found; and also and sending a copy~~  
14 ~~through the mail addressed to the tenant at the place where the~~  
15 ~~property is situated and the alternate location described in~~  
16 ~~subdivision (b). Service upon a subtenant may be made in the same~~  
17 ~~manner. Attestation of reasonable diligence by a certified process~~  
18 ~~server shall be prima facie proof of that fact for purposes of this~~  
19 ~~subdivision.~~

20 (d) *For purposes of this section, “property” refers to the*  
21 *property that is the subject of the lease.*

22 *SEC. 2. No reimbursement is required by this act pursuant to*  
23 *Section 6 of Article XIII B of the California Constitution because*  
24 *a local agency or school district has the authority to levy service*  
25 *charges, fees, or assessments sufficient to pay for the program or*  
26 *level of service mandated by this act or because costs that may be*  
27 *incurred by a local agency or school district will be incurred*  
28 *because this act creates a new crime or infraction, eliminates a*  
29 *crime or infraction, or changes the penalty for a crime or*  
30 *infraction, within the meaning of Section 17556 of the Government*  
31 *Code, or changes the definition of a crime within the meaning of*  
32 *Section 6 of Article XIII B of the California Constitution.*

33 ~~SECTION 1. Section 1162 of the Code of Civil Procedure is~~  
34 ~~repealed.~~

35 ~~SEC. 2. Section 1162 is added to the Code of Civil Procedure,~~  
36 ~~to read:~~

37 ~~1162. (a) The notices required by Sections 1161 and 1161a~~  
38 ~~may be served on a tenant by any of the following methods:~~

39 ~~(1) By delivering a copy of the notice to the tenant personally.~~

- 1     ~~(2) By leaving a copy of the notice at the property with a person~~
- 2     ~~of suitable age and discretion and mailing a copy of the notice to~~
- 3     ~~the tenant at the address of the property.~~
- 4     ~~(3) By doing both of the following:~~
- 5         ~~(A) Affixing a copy of the notice in a conspicuous place on the~~
- 6         ~~property.~~
- 7         ~~(B) Mailing a copy of the notice to the tenant at the address of~~
- 8         ~~the property.~~
- 9     ~~(b) Service upon a subtenant may be effected in the same manner~~
- 10    ~~as service upon a tenant.~~
- 11    ~~(c) For purposes of this section, the term “property” refers to~~
- 12    ~~the property that is the subject of the lease.~~