

ASSEMBLY BILL

No. 265

Introduced by Assembly Member Ammiano

February 7, 2011

An act to amend Section 1161 of the Code of Civil Procedure, relating to tenancies.

LEGISLATIVE COUNSEL'S DIGEST

AB 265, as introduced, Ammiano. Tenancies: unlawful detainer.

Existing law specifies that a tenant is guilty of unlawful detainer upon default in the payment of rent under the lease after receipt of 3 days' notice of that violation and failure to correct it.

This bill would increase the time of the notice period from 3 to 14 days.

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

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

1 SECTION 1. Section 1161 of the Code of Civil Procedure, as
2 amended by Section 5 of Chapter 244 of the Statutes of 2009, is
3 amended to read:
4 1161. A tenant of real property, for a term less than life, or the
5 executor or administrator of his or her estate heretofore qualified
6 and now acting or hereafter to be qualified and act, is guilty of
7 unlawful detainer:
8 1. When he or she continues in possession, in person or by
9 subtenant, of the property, or any part thereof, after the expiration
10 of the term for which it is let to him or her; provided the expiration

1 is of a nondefault nature however brought about without the
2 permission of his or her landlord, or the successor in estate of his
3 or her landlord, if applicable; including the case where the person
4 to be removed became the occupant of the premises as a servant,
5 employee, agent, or licensee and the relation of master and servant,
6 or employer and employee, or principal and agent, or licensor and
7 licensee, has been lawfully terminated or the time fixed for
8 occupancy by the agreement between the parties has expired; but
9 nothing in this subdivision shall be construed as preventing the
10 removal of the occupant in any other lawful manner; but in case
11 of a tenancy at will, it must first be terminated by notice, as
12 prescribed in the Civil Code.

13 2. When he or she continues in possession, in person or by
14 subtenant, without the permission of his or her landlord, or the
15 successor in estate of his or her landlord, if applicable, after default
16 in the payment of rent, pursuant to the lease or agreement under
17 which the property is held, and ~~three~~ 14 days' notice, in writing,
18 requiring its payment, stating the amount which is due, the name,
19 telephone number, and address of the person to whom the rent
20 payment shall be made, and, if payment may be made personally,
21 the usual days and hours that person will be available to receive
22 the payment (provided that, if the address does not allow for
23 personal delivery, then it shall be conclusively presumed that upon
24 the mailing of any rent or notice to the owner by the tenant to the
25 name and address provided, the notice or rent is deemed received
26 by the owner on the date posted, if the tenant can show proof of
27 mailing to the name and address provided by the owner), or the
28 number of an account in a financial institution into which the rental
29 payment may be made, and the name and street address of the
30 institution (provided that the institution is located within five miles
31 of the rental property), or if an electronic funds transfer procedure
32 has been previously established, that payment may be made
33 pursuant to that procedure, or possession of the property, shall
34 have been served upon him or her and if there is a subtenant in
35 actual occupation of the premises, also upon the subtenant.

36 The notice may be served at any time within one year after the
37 rent becomes due. In all cases of tenancy upon agricultural lands,
38 where the tenant has held over and retained possession for more
39 than 60 days after the expiration of the term without any demand
40 of possession or notice to quit by the landlord or the successor in

1 estate of his or her landlord, if applicable, he or she shall be deemed
2 to be holding by permission of the landlord or successor in estate
3 of his or her landlord, if applicable, and shall be entitled to hold
4 under the terms of the lease for another full year, and shall not be
5 guilty of an unlawful detainer during that year, and the holding
6 over for that period shall be taken and construed as a consent on
7 the part of a tenant to hold for another year.

8 3. When he or she continues in possession, in person or by
9 subtenant, after a neglect or failure to perform other conditions or
10 covenants of the lease or agreement under which the property is
11 held, including any covenant not to assign or sublet, than the one
12 for the payment of rent, and three days' notice, in writing, requiring
13 the performance of such conditions or covenants, or the possession
14 of the property, shall have been served upon him or her, and if
15 there is a subtenant in actual occupation of the premises, also, upon
16 the subtenant. Within three days after the service of the notice, the
17 tenant, or any subtenant in actual occupation of the premises, or
18 any mortgagee of the term, or other person interested in its
19 continuance, may perform the conditions or covenants of the lease
20 or pay the stipulated rent, as the case may be, and thereby save the
21 lease from forfeiture; provided, if the conditions and covenants of
22 the lease, violated by the lessee, cannot afterward be performed,
23 then no notice, as last prescribed herein, need be given to the lessee
24 or his or her subtenant, demanding the performance of the violated
25 conditions or covenants of the lease.

26 A tenant may take proceedings, similar to those prescribed in
27 this chapter, to obtain possession of the premises let to a subtenant
28 or held by a servant, employee, agent, or licensee, in case of his
29 or her unlawful detention of the premises underlet to him or her
30 or held by him or her.

31 4. Any tenant, subtenant, or executor or administrator of his or
32 her estate heretofore qualified and now acting, or hereafter to be
33 qualified and act, assigning or subletting or committing waste upon
34 the demised premises, contrary to the conditions or covenants of
35 his or her lease, or maintaining, committing, or permitting the
36 maintenance or commission of a nuisance upon the demised
37 premises or using the premises for an unlawful purpose, thereby
38 terminates the lease, and the landlord, or his or her successor in
39 estate, shall upon service of three days' notice to quit upon the
40 person or persons in possession, be entitled to restitution of

1 possession of the demised premises under this chapter. For
2 purposes of this subdivision, a person who commits an offense
3 described in subdivision (c) of Section 3485 of the Civil Code, or
4 subdivision (c) of Section 3486 of the Civil Code, or uses the
5 premises to further the purpose of that offense shall be deemed to
6 have committed a nuisance upon the premises.

7 5. When he or she gives written notice as provided in Section
8 1946 of the Civil Code of his or her intention to terminate the
9 hiring of the real property, or makes a written offer to surrender
10 which is accepted in writing by the landlord, but fails to deliver
11 possession at the time specified in that written notice, without the
12 permission of his or her landlord, or the successor in estate of the
13 landlord, if applicable.

14 As used in this section, tenant includes any person who hires
15 real property except those persons whose occupancy is described
16 in subdivision (b) of Section 1940 of the Civil Code.

17 This section shall become operative on January 1, 2012.