

AMENDED IN SENATE MAY 21, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2485**

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**Introduced by Assembly Members Dickinson and Ridley-Thomas**

February 21, 2014

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An act to amend Section 3486 of, and to add and repeal Section 3486.5 of the Civil Code, relating to civil law, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2485, as amended, Dickinson. Unlawful detainer: nuisance: controlled substances.

Existing law establishes the criteria for determining when a tenant is guilty of unlawful detainer, including conduct involving illegally selling a controlled substance, or the commission of an offense involving the unlawful possession or use of illegal weapons or ammunition or the use of the premises to further that purpose. Any of those acts may be deemed to constitute committing a nuisance on the premises. Existing law authorizes, ~~in the County~~ *for real property situated in the City of Los Angeles* only, a city prosecutor or city attorney to file an action for unlawful detainer in the name of the people against any person who is in violation of the nuisance or the illegal purpose provisions of the unlawful detainer provision described above, with respect to controlled substances.

This bill would, until January 1, 2019, extend the unlawful detainer provisions above regarding illegally selling controlled substances,

applicable only to ~~the County~~ *real property situated in the City of Los Angeles, to also include real property situated in the County of Sacramento and the City of Oakland.* The bill would also, until January 1, 2019, require the County of Sacramento *and the City of Oakland* to comply with specified reporting requirements to the California Research Bureau, on or before January 20 annually, regarding prosecutions and evictions carried out under these provisions. *By establishing new reporting requirements for local officials, this bill would impose a state-mandated local program.*

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Sacramento *and the City of Oakland.*

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, 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 3486 of the Civil Code is amended to  
2 read:  
3 3486. (a) To abate the nuisance caused by illegal conduct  
4 involving a controlled substance purpose on real property, the city  
5 prosecutor or city attorney may file, in the name of the people, an  
6 action for unlawful detainer against any person who is in violation  
7 of the nuisance or illegal purpose provisions of subdivision 4 of  
8 Section 1161 of the Code of Civil Procedure, with respect to that  
9 controlled substance purpose. In filing this action, which shall be  
10 based upon an arrest report or other report by a law enforcement  
11 agency, reporting an offense committed on the property and  
12 documented by the observations of a police officer, the city  
13 prosecutor or city attorney shall use the procedures set forth in  
14 Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of

1 the Code of Civil Procedure, except that in cases filed under this  
2 section, the following also shall apply:

3 (1) (A) Prior to filing an action pursuant to this section, the city  
4 prosecutor or city attorney shall give 30 calendar days’ written  
5 notice to the owner, requiring the owner to file an action for the  
6 removal of the person who is in violation of the nuisance or illegal  
7 purpose provisions of subdivision 4 of Section 1161 of the Code  
8 of Civil Procedure with respect to a controlled substance purpose.

9 (B) This notice shall include sufficient documentation  
10 establishing a violation of the nuisance or illegal purpose provisions  
11 of subdivision 4 of Section 1161 of the Code of Civil Procedure  
12 and an advisement to the owner of the assignment provision  
13 contained in subparagraph (D). The notice shall be served upon  
14 the owner and the tenant in accordance with subdivision (e).

15 (C) The notice to the tenant shall, in at least 14-point bold type,  
16 meet the following requirements:

17 (i) The notice shall contain the following language:

18

19 “(Date)

20

21 (Name of tenant)

22 (Address of tenant)

23

24 Re: Civil Code Section 3486

25

26 Dear (name of tenant):

27

28 This letter is to inform you that an eviction action may soon be  
29 filed in court against you for suspected drug activity. According  
30 to state law, Civil Code Section 3486 provides for eviction of  
31 persons engaging in such conduct, as described below.

32

33 (Name of police department) records indicate that you, (name  
34 of arrestee), were arrested on (date) for violations of (list violations)  
35 on (address of property).

36

37 A letter has been sent to the property owner(s) advising of your  
38 arrest and the requirements of state law, as well as the landlord’s  
39 option to assign the unlawful detainer action to the (name of city  
40 attorney or prosecutor’s office).

1  
 2 A list of legal assistance providers is provided below. Please  
 3 note, this list is not exclusive and is provided for your information  
 4 only; the (name of city attorney or prosecutor’s office) does not  
 5 endorse or recommend any of the listed agencies.

6  
 7 Sincerely,  
 8  
 9 (Name of deputy city attorney or city prosecutor)  
 10 Deputy City (Attorney or Prosecutor)

11  
 12 Notice to Tenant: This notice is not a notice of eviction. You  
 13 should call (name of the city attorney or prosecutor pursuing the  
 14 action) at (telephone number) or a legal assistance provider to stop  
 15 the eviction action if any of the following is applicable:

- 16 (1) You are not the person named in this notice.
- 17 (2) The person named in the notice does not live with you.
- 18 (3) The person named in the notice has permanently moved.
- 19 (4) You do not know the person named in the notice.
- 20 (5) You want to request that only the person involved in the  
 21 nuisance be evicted, allowing the other residents to stay.
- 22 (6) You have any other legal defense or legal reason to stop the  
 23 eviction action.

24 A list of legal assistance providers is attached to this notice.  
 25 Some provide free legal assistance if you are eligible.”

26  
 27 (ii) The notice shall be provided to the tenant in English and,  
 28 as translated, in all of the languages identified in subdivision (a)  
 29 of Section 1632 of the Civil Code.

30 (D) The owner shall, within 30 calendar days of the mailing of  
 31 the written notice, either provide the city prosecutor or city attorney  
 32 with all relevant information pertaining to the unlawful detainer  
 33 case, or provide a written explanation setting forth any  
 34 safety-related reasons for noncompliance, and an assignment to  
 35 the city prosecutor or city attorney of the right to bring an unlawful  
 36 detainer action against the tenant.

37 (E) The assignment shall be on a form provided by the city  
 38 prosecutor or city attorney and may contain a provision for costs  
 39 of investigation, discovery, and reasonable attorney’s fees, in an  
 40 amount not to exceed six hundred dollars (\$600). *An owner shall*

1 *only be required to pay the costs or fees upon acceptance of the*  
2 *assignment for unlawful detainer by the city prosecutor or city*  
3 *attorney.*

4 (F) If the city prosecutor or city attorney accepts the assignment  
5 of the right of the owner to bring the unlawful detainer action, the  
6 owner shall retain all other rights and duties, including the handling  
7 of the tenant's personal property, following issuance of the writ  
8 of possession and its delivery to and execution by the appropriate  
9 agency.

10 (2) Upon the failure of the owner to file an action pursuant to  
11 this section, or to respond to the city prosecutor or city attorney  
12 as provided in paragraph (1), or having filed an action, if the owner  
13 fails to prosecute it diligently and in good faith, the city prosecutor  
14 or city attorney may file and prosecute the action, and join the  
15 owner as a defendant in the action. This action shall have  
16 precedence over any similar proceeding thereafter brought by the  
17 owner, or to one previously brought by the owner and not  
18 prosecuted diligently and in good faith. Service of the summons  
19 and complaint upon the defendant owner shall be in accordance  
20 with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the  
21 Code of Civil Procedure.

22 (3) If a jury or court finds the defendant tenant guilty of unlawful  
23 detainer in a case filed pursuant to paragraph (2), the city  
24 prosecutor or city attorney may be awarded costs, including the  
25 costs of investigation and discovery and reasonable attorney's fees.  
26 These costs shall be assessed against the defendant owner, to whom  
27 notice was directed pursuant to paragraph (1), and once an abstract  
28 of judgment is recorded, it shall constitute a lien on the subject  
29 real property.

30 (4) Nothing in this section shall prevent a local governing body  
31 from adopting and enforcing laws, consistent with this article,  
32 relating to drug abatement. Where local laws duplicate or  
33 supplement this section, this section shall be construed as providing  
34 alternative remedies and not preempting the field.

35 (5) Nothing in this section shall prevent a tenant from receiving  
36 relief against a forfeiture of a lease pursuant to Section 1179 of  
37 the Code of Civil Procedure.

38 (b) In any proceeding brought under this section, the court may,  
39 upon a showing of good cause, issue a partial eviction ordering  
40 the removal of any person, including, but not limited to, members

1 of the tenant's household if the court finds that the person has  
2 engaged in the activities described in subdivision (a). Persons  
3 removed pursuant to this section may be permanently barred from  
4 returning to or reentering any portion of the entire premises. The  
5 court may further order as an express condition of the tenancy that  
6 the remaining tenants shall not give permission to or invite any  
7 person who has been removed pursuant to this subdivision to return  
8 to or reenter any portion of the entire premises.

9 (c) For the purposes of this section, "controlled substance  
10 purpose" means the manufacture, cultivation, importation into the  
11 state, transportation, possession, possession for sale, sale,  
12 furnishing, administering, or giving away, or providing a place to  
13 use or fortification of a place involving, cocaine, phencyclidine,  
14 heroin, methamphetamine, or any other controlled substance, in a  
15 violation of subdivision (a) of Section 11350, Section 11351,  
16 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or  
17 Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5,  
18 11379.6, or 11383 of the Health and Safety Code.

19 (d) Notwithstanding subdivision (b) of Section 68097.2 of the  
20 Government Code, a public entity may waive all or part of the  
21 costs incurred in furnishing the testimony of a peace officer in an  
22 unlawful detainer action brought pursuant to this section.

23 (e) The notice and documentation described in paragraph (1)  
24 of subdivision (a) shall be given in writing and may be given either  
25 by personal delivery or by deposit in the United States mail in a  
26 sealed envelope, postage prepaid, addressed to the owner at the  
27 address known to the public entity giving the notice, or as shown  
28 on the last equalized assessment roll, if not known. Separate notice  
29 of not less than 30 calendar days and documentation shall be  
30 provided to the tenant in accordance with this subdivision. Service  
31 by mail shall be deemed to be completed at the time of deposit in  
32 the United States mail. Proof of giving the notice may be made by  
33 a declaration signed under penalty of perjury by any employee of  
34 the public entity which shows service in conformity with this  
35 section.

36 (f) This section shall apply only in the County of Los Angeles  
37 to any court having jurisdiction over unlawful detainer cases  
38 involving real property situated in the City of Los Angeles.

39 ~~(g) (1) Notwithstanding subdivision (f), this section shall apply~~  
40 ~~in the County of Sacramento to any court having jurisdiction over~~

1 ~~unlawful detainer cases involving real property situated in the~~  
2 ~~County of Sacramento.~~

3 ~~(2) This subdivision shall remain in effect only until January 1,~~  
4 ~~2019, and as of that date is repealed, unless a later enacted statute,~~  
5 ~~that is enacted before January 1, 2019, deletes or extends that date.~~

6 SEC. 2. Section 3486.5 is added to the Civil Code, to read:

7 3486.5. (a) *Notwithstanding subdivision (f) of Section 3486,*  
8 *Section 3486 shall apply in the County of Sacramento, in any court*  
9 *with jurisdiction over unlawful detainer cases involving real*  
10 *property situated in the City of Sacramento and in the County of*  
11 *Alameda in any court having jurisdiction over unlawful detainer*  
12 *cases involving real property situated in the City of Oakland.*

13 (b) (1) In a template provided by the California Research  
14 Bureau, the city attorney and city prosecutor of the County of  
15 Sacramento *and the city attorney and city prosecutor of the City*  
16 *of Oakland* shall provide to the California Research Bureau the  
17 following information pertaining to cases filed pursuant to Section  
18 3486:

19 (A) The number of notices provided pursuant to paragraph (1)  
20 of subdivision (a) of Section 3486.

21 (B) For each notice provided pursuant to paragraph (1) of  
22 subdivision (a) of Section 3486, the following information:

23 (i) The name and age, as provided by the landlord, of each  
24 person residing at the noticed address.

25 (ii) Whether the person has previously received a notice pursuant  
26 to this section from the reporting city attorney or city prosecutor,  
27 and if so, whether the tenant vacated or was evicted as a result.

28 (iii) The date the initial notice was issued.

29 (C) Whether the tenant has previously been arrested (other than  
30 an arrest that is the basis of this notice) for any of the offenses  
31 specified in subdivision (c) of Section 3486.

32 (D) Whether, upon notice, the case was filed by the owner, and  
33 if so, the filing date and case number.

34 (E) Whether the assignment was executed by the owner to the  
35 city attorney or prosecutor.

36 (F) Whether 3-day, 30-day, or 60-day notices were issued by  
37 the city attorney or city prosecutor, and if so, the date each was  
38 issued.

39 (G) Whether the case was filed by the city attorney or city  
40 prosecutor, and if so, the filing date and case number.

- 1 (H) Whether the owner is joined as a defendant pursuant to this
- 2 section.
- 3 (I) For the cases filed by an owner, the city attorney, or the city
- 4 prosecutor, the following information:
- 5 (i) If a judgment was entered, the date of the judgment, whether
- 6 the judgment ordered an eviction or partial eviction, and whether
- 7 the judgment was a default judgment, stipulated judgment, or
- 8 judgment following trial.
- 9 (ii) Whether the case was withdrawn or the tenant prevailed.
- 10 (iii) Whether there was another disposition, and the type of
- 11 disposition.
- 12 (iv) Whether the defendant was represented by counsel.
- 13 (v) Whether the case was a trial by the court or a trial by jury.
- 14 (vi) Whether an appeal was taken, and, if so, the result of the
- 15 appeal and the date of the result.
- 16 (vii) Whether a partial eviction was requested, and whether the
- 17 court ordered a partial eviction.
- 18 (J) For cases in which a notice was provided pursuant to
- 19 subdivision (a) of Section 3486, but no case was filed, the
- 20 following information:
- 21 (i) Whether a tenant voluntarily vacated subsequent to receiving
- 22 the notice, and if so, the date vacated.
- 23 (ii) Whether a tenant vacated a unit prior to the providing of the
- 24 notice, and if so, the date vacated.
- 25 (iii) Whether the notice provided pursuant to subdivision (a) of
- 26 Section 3486 was erroneously sent to the tenant. This shall include
- 27 a list of the reasons, if known, for the erroneously sent notice, such
- 28 as reliance on information on the suspected violator’s name or
- 29 address that was incorrect, a clerical error, or other reason.
- 30 (iv) Whether there was another resolution and the type of
- 31 resolution.
- 32 (K) The street address, city, and ZIP Code of residence where
- 33 the tenants relocated, to the extent known.
- 34 (2) (A) Information compiled pursuant to this section shall be
- 35 reported annually to the California Research Bureau on or before
- 36 January 20.
- 37 (B) The California Research Bureau shall thereafter submit a
- 38 brief report to the Senate and Assembly Committees on Judiciary
- 39 once on or before March 20, 2016, and once on or before March
- 40 20, 2018, summarizing the information collected pursuant to this

1 section and evaluating the merits of the pilot programs established  
2 by this section. The report for this section shall be submitted in  
3 compliance with Section 9795 of the Government Code and may  
4 be combined with the California Research Bureau report submitted  
5 for the pilot program established by Section 3485. The 2018 report  
6 shall indicate whether the City of Sacramento ~~has~~ *and the City of*  
7 *Oakland have* regularly reported to the bureau.

8 (3) Personally identifiable information submitted to the  
9 California Research Bureau pursuant to this section shall be  
10 confidential and shall not be publicly disclosed.

11 (c) This section shall remain in effect only until January 1, 2019,  
12 and as of that date is repealed, unless a later enacted statute, that  
13 is enacted before January 1, 2019, deletes or extends that date.

14 SEC. 3. The Legislature finds and declares that a special law  
15 is necessary and that a general law cannot be made applicable  
16 within the meaning of Section 16 of Article IV of the California  
17 Constitution because the City of Sacramento ~~has a~~ *and the City of*  
18 *Oakland have* unique and historic ~~role~~ *roles* in reporting data  
19 regarding city attorney sponsored unlawful detainer actions and  
20 outcomes to the California Research Bureau in assessing the  
21 effectiveness of this program.

22 SEC. 4. If the Commission on State Mandates determines that  
23 this act contains costs mandated by the state, reimbursement to  
24 local agencies and school districts for those costs shall be made  
25 pursuant to Part 7 (commencing with Section 17500) of Division  
26 4 of Title 2 of the Government Code.

27 SEC. 5. This act is an urgency statute necessary for the  
28 immediate preservation of the public peace, health, or safety within  
29 the meaning of Article IV of the Constitution and shall go into  
30 immediate effect. The facts constituting the necessity are:

31 In order that the City of Sacramento *and the City of Oakland*  
32 have all the tools they need for the protection of public safety at  
33 the earliest time, it is necessary that the bill go into effect  
34 immediately.