

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2003

**Introduced by Assembly Member Lackey
(Coauthors: Assembly Members Gallagher and Wagner)**

February 16, 2016

An act to amend Section 1954 of the Civil Code, and to amend Section 392 of, and to add Section 1168 to, the Code of Civil Procedure, relating to unlawful detainer proceedings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2003, as amended, Lackey. Unlawful detainer—~~proceedings; answers; proceedings.~~

Under existing law, a dwelling is deemed untenable, as specified, if it substantially lacks certain affirmative standard characteristics including floors, stairways, and railings maintained in good repair. Existing law authorizes a landlord, after giving a tenant reasonable written notice, to enter a dwelling for certain purposes, including to make necessary or agreed repairs, decorations, alterations, or improvements.

This bill would also authorize a landlord to enter a dwelling to comply with the obligation that the dwelling have certain affirmative standard characteristics, as described above, necessary for the dwelling to be deemed tenantable.

Existing law provides *that* a tenant of real ~~property~~, *property* for a term less than life, or the executor of his or her estate, is guilty of unlawful detainer if, among other things, he or she continues in possession, in person or by subtenant, of the property or any part of the property, after the expiration of the term for which it is let to him or

her, except as specified. Existing law requires a complaint filed in an unlawful detainer proceeding to include certain information and requires a defendant to answer the complaint, as specified, within 5 days of being served with a summons and the complaint, unless the court orders otherwise for good cause shown.

This bill would require a defendant in an unlawful detainer ~~action to indicate on the appropriate Judicial Council answer form if he or she has hired an attorney to represent him or her in the matter, and would require the defendant's attorney to contact the plaintiff or the plaintiff's attorney within certain timeframes. The bill would also require the defendant, action, if he or she asserts an affirmative defense of breach of the implied warranty of habitability, to indicate on the appropriate Judicial Council answer form if he or she has lodged a complaint or complaints regarding the in~~*habitability uninhabitability of the premises; premises before the filing of the action, and would require the defendant to include specified information about that complaint. information about who the complaint or complaints were lodged with.* The bill would require the Judicial Council, on or before July 1, 2017, to revise the appropriate answer form to include spaces to input the information, as described above.

Existing law provides that the proper location for the trial of an unlawful detainer action is the location of the court in which unlawful detainer actions are tried that is nearest or most accessible to where the real property that is the subject of the action is situated.

This bill would prohibit a plaintiff or defendant in an unlawful detainer action from requesting a change in court location if the court location for trial of the action is the nearest to where the real property that is the subject of the action is situated. The bill would provide that this prohibition only applies if that court location has been designated as a proper court location for the trial and allows for a jury trial.

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

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

- 1 SECTION 1. Section 1954 of the Civil Code is amended to
- 2 read:
- 3 1954. (a) A landlord may enter the dwelling unit only in the
- 4 following cases:
- 5 (1) In case of emergency.

1 (2) To make necessary or agreed repairs, decorations, alterations
2 or improvements, *to* supply necessary or agreed services, ~~or to~~
3 exhibit the dwelling unit to prospective or actual purchasers,
4 mortgagees, tenants, workers, or ~~contractors or~~ *contractors*, to
5 make an inspection pursuant to subdivision (f) of Section ~~1950.5.~~
6 *1950.5, or to comply with Section 1941.1.*

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

8 (4) Pursuant to court order.

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

14 (c) The landlord ~~may~~ *shall* not abuse the right of access or use
15 it to harass the tenant.

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

29 (2) If the purpose of the entry is to exhibit the dwelling unit to
30 prospective or actual purchasers, the notice may be given orally,
31 in person or by telephone, if the landlord or his or her agent has
32 notified the tenant in writing within 120 days of the oral notice
33 that the property is for sale and that the landlord or agent may
34 contact the tenant orally for the purpose described above.
35 Twenty-four hours is presumed reasonable notice in the absence
36 of evidence to the contrary. The notice shall include the date,
37 approximate time, and purpose of the entry. At the time of entry,
38 the landlord or agent shall leave written evidence of the entry inside
39 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 392 of the Code of Civil Procedure is amended to read:*

392. (a) Subject to the power of the court to transfer actions and proceedings as provided in this title, the superior court in the county where the real property that is the subject of the action, or some part thereof, is situated, is the proper court for the trial of the following actions:

(1) For the recovery of real property, or of an estate or interest ~~therein~~, *in real property*, or for the determination in any form, of that right or interest, and for injuries to real property.

(2) For the foreclosure of all liens and mortgages on real property.

(b) (1) In the court designated as the proper court in subdivision (a), the proper court location for trial of a proceeding for an unlawful detainer, as ~~defined~~ *described* in Section 1161, is the location where the court tries that type of proceeding that is nearest or most accessible to where the real property that is the subject of the action, or some part thereof, is situated. Otherwise any location of the superior court designated as the proper court in subdivision (a) is a proper court location for the trial. The court may specify by local rule the nearest or most accessible court location where the court tries that type of case.

(2) *A plaintiff or a defendant shall not request a change in court location if the court location for trial of the proceeding for an unlawful detainer, as described in Section 1161, is the court location that is nearest to where the real property that is the subject of the action, or some part thereof, is situated. This paragraph only applies if that court location has been designated as a proper court location for the trial and allows for a jury trial.*

1 SECTION 1.

2 SEC. 3. Section 1168 is added to the Code of Civil Procedure,
3 to read:

4 ~~1168. (a) The defendant shall indicate on the appropriate~~
5 ~~Judicial Council answer form if he or she has hired an attorney to~~
6 ~~represent him or her in the matter. If the defendant has hired an~~
7 ~~attorney to represent him or her in the matter, the attorney shall~~
8 ~~contact the plaintiff or his or her attorney within three days of the~~
9 ~~tenant filing the answer or, if the attorney is hired after the answer~~
10 ~~was filed, within 24 hours of being hired by the tenant.~~

11 ~~(b)~~

12 1168. If the defendant asserts an affirmative defense of breach
13 of the implied warranty of habitability, the defendant shall indicate
14 on the appropriate Judicial Council answer form if he or she has
15 lodged a complaint *or complaints* regarding the ~~inhabitability~~
16 ~~uninhabitability~~ of the ~~premises~~. *premises before the filing of the*
17 *action.* If the defendant has lodged a complaint *or complaints*
18 regarding the ~~inhabitability~~ ~~uninhabitability~~ of the ~~premises~~,
19 *premises before the filing of the action*, he or she shall include on
20 the appropriate Judicial Council answer form ~~all of the following~~
21 *information*:

22 ~~(1) The nature of the complaint.~~

23 ~~(2) If the complaint was made orally or in writing.~~

24 ~~(3) The person or entity with whom the complaint was lodged,~~
25 ~~if known.~~

26 ~~(4) The approximate date the complaint was lodged.~~

27 ~~(5) The action, if any, taken by the plaintiff in response to the~~
28 ~~complaint.~~

29 ~~(a) Whether the complaint or complaints were lodged with the~~
30 ~~plaintiff or the plaintiff's agent in charge of managing the premises.~~

31 ~~(b) Whether the complaint or complaints were lodged with a~~
32 ~~city or county department, and, if so, which city or county~~
33 ~~department.~~

34 SEC. 2.

35 SEC. 4. On or before July 1, 2017, the Judicial Council shall
36 revise the "Answer-Unlawful Detainer" form to include spaces to
37 input the information required by Section ~~1~~ 3 of this act.