

ASSEMBLY BILL

No. 2819

Introduced by Assembly Member Chiu

February 19, 2016

An act to amend Section 1161.2 of, and to add Section 1167.1 to, the Code of Civil Procedure, relating to unlawful detainer proceedings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2819, as introduced, Chiu. Unlawful detainer proceedings.

Under existing law, a tenant of real property, for a term less than life, or the executor or administrator or his or her estate, is guilty of unlawful detainer when 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. Under existing law access to limited civil case records filed in an unlawful detainer action is restricted to (1) parties to the action, (2) certain people who provide the court clerk with specified information about the parties to the action, (3) any person by order of the court on a showing of good cause, and (4) any other person 60 days after the complaint has been filed, unless the defendant prevails in the action within 60 days after the filing of the complaint, in which case access is limited to the other parties allowed access, as described above.

This bill would instead provide that access to limited civil case records filed in an unlawful detainer action is restricted, for purposes of (4), as described above, to any other person if 60 days have elapsed since the complaint was filed and judgment against all defendants has been entered for the plaintiff based on certain occurrences, as specified. The bill would provide that if a default or default judgment is set aside more than 60 days after the complaint was filed, the court file access

restrictions, as described above, shall apply as if the complaint had been filed on the date the default or the default judgment is set aside. The bill would authorize the parties to stipulate to, and would require the court to issue, an order prohibiting the clerk from allowing access to any court records in the action, pending a further order of the court.

Existing law requires a summons in a unlawful detainer proceeding to be issued, served, and returned in the same manner as a summons in a civil action except that when the defendant is served, the defendant’s response must be filed within 5 days, instead of 30 days.

This bill would require an unlawful detainer proceeding to be dismissed without prejudice if 60 days elapse after a complaint is filed and no proof of service of the summons has been filed.

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 1161.2 of the Code of Civil Procedure
 2 is amended to read:
 3 1161.2. (a) (1) The clerk ~~may~~ shall allow access to limited
 4 civil case records filed under this chapter, including the court file,
 5 index, and register of actions, only as follows:
 6 (1)
 7 (A) To a party to the action, including a party’s attorney.
 8 (2)
 9 (B) To ~~any~~ a person who provides the clerk with the names of
 10 at least one plaintiff and one defendant and the address of the
 11 premises, including the apartment or unit number, if any.
 12 (3)
 13 (C) To a resident of the premises who provides the clerk with
 14 the name of one of the parties or the case number and shows proof
 15 of residency.
 16 (4)
 17 (D) To ~~any~~ a person by order of the court, which may be granted
 18 ex parte, on a showing of good cause.
 19 ~~(5) Except as provided in paragraph (6), to any other person 60~~
 20 ~~days after the complaint has been filed, unless a defendant prevails~~
 21 ~~in the action within 60 days of the filing of the complaint, in which~~
 22 ~~case the clerk may not allow access to any court records in the~~
 23 ~~action, except as provided in paragraphs (1) to (4), inclusive.~~

1 (E) To any other person if 60 days have elapsed since the
2 complaint has been filed and, as of the 60th day, judgment against
3 all defendants has been entered for the plaintiff based on any of
4 the following:

5 (i) Default, upon written application of the plaintiff and proof
6 of service of the summons, unless the default or default judgment
7 has been set aside. If the default or default judgment is set aside
8 more than 60 days after the complaint has been filed, this section
9 shall apply as if the complaint has been filed on the date the default
10 or default judgment is set aside.

11 (ii) Summary judgment.

12 (iii) Trial.

13 (iv) Stipulation by all the parties.

14 ~~(6)~~

15 (F) In the case of a complaint involving residential property
16 based on Section 1161a as indicated in the caption of the complaint,
17 as required in subdivision (c) of Section 1166, to any other person,
18 if 60 days have elapsed since the complaint was filed with the
19 court, and, as of that date, judgment against all defendants has
20 been entered for the plaintiff, after a trial. ~~If judgment is not entered~~
21 ~~under the conditions described in this paragraph, the clerk shall~~
22 ~~not allow access to any court records in the action, except as~~
23 ~~provided in paragraphs (1) to (4), inclusive.~~

24 (2) Notwithstanding any other provision of this section, if the
25 parties stipulate, the court shall issue an order prohibiting the
26 clerk from allowing access to any court records in an action filed
27 under this chapter, pending further order of the court.

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

34 (c) Upon the filing of ~~any~~ a case so restricted, the court clerk
35 shall mail notice to each defendant named in the action. The notice
36 shall be mailed to the address provided in the complaint. The notice
37 shall contain a statement that an unlawful detainer complaint
38 (eviction action) has been filed naming that party as a defendant,
39 and that access to the court file will be delayed for 60 days except
40 to a party, an attorney for one of the parties, or any other person

1 who (1) provides to the clerk the names of at least one plaintiff
2 and one defendant in the action and provides to the clerk the
3 address, including any applicable apartment, unit, or space number,
4 of the subject premises, or (2) provides to the clerk the name of
5 one of the parties in the action or the case number and can establish
6 through proper identification that he or she lives at the subject
7 premises. The notice shall also contain a statement that access to
8 the court index, register of actions, or other records is not permitted
9 until 60 days after the complaint is filed, except pursuant to an
10 order upon a showing of good cause ~~therefor~~ *for access*. The notice
11 shall contain on its face the following information:

12 (1) The name and telephone number of the county bar
13 association.

14 (2) The name and telephone number of any entity that requests
15 inclusion on the notice and demonstrates to the satisfaction of the
16 court that it has been certified by the State Bar of *California* as a
17 lawyer referral service and maintains a panel of attorneys qualified
18 in the practice of landlord-tenant law pursuant to the minimum
19 standards for a lawyer referral service established by the State Bar
20 of *California* and Section 6155 of the Business and Professions
21 Code.

22 (3) The following statement:

23
24 “The State Bar of California certifies lawyer referral services in
25 California and publishes a list of certified lawyer referral services
26 organized by county. To locate a lawyer referral service in your
27 county, go to the State Bar’s ~~website~~ *Internet Web site* at
28 www.calbar.ca.gov or call 1-866-442-2529.”
29

30 (4) The name and telephone number of an office or offices
31 funded by the federal Legal Services Corporation or qualified legal
32 services projects that receive funds distributed pursuant to Section
33 6216 of the Business and Professions Code that provide legal
34 services to low-income persons in the county in which the action
35 is filed. The notice shall state that these numbers may be called
36 for legal advice regarding the case. The notice shall be issued
37 between 24 and 48 hours of the filing of the complaint, excluding
38 weekends and holidays. One copy of the notice shall be addressed
39 to “all occupants” and mailed separately to the subject premises.

1 The notice shall not constitute service of the summons and
2 complaint.

3 (d) Notwithstanding any other ~~provision of law~~, the court shall
4 charge an additional fee of fifteen dollars (\$15) for filing a first
5 appearance by the plaintiff. This fee shall be added to the uniform
6 filing fee for actions filed under this chapter.

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

11 SEC. 2. Section 1167.1 is added to the Code of Civil Procedure,
12 to read:

13 1167.1. If 60 days elapse after the complaint is filed and no
14 proof of service of the summons has been filed, the action shall
15 be dismissed without prejudice.