

GOVERNOR BROWN SIGNS LEGISLATION INTENDED TO PREVENT HOMELESSNESS

Assembly Bill No. 2343

As a residential real property manager, you are well aware that existing law establishes a procedure, known as an unlawful detainer action, that a landlord must follow in order to evict a tenant. Under the existing law, Civil Code of Procedure Sections 1161 and 1167 provide that a tenant is subject to such an action if the tenant continues to possess the property without permission of the landlord in specified circumstances, including when the tenant has violated the lease by defaulting on rent or failing to perform a duty under the lease, but the landlord must first give the tenant a 3-day notice to cure the violation or vacate. If the tenant fails to cure the default after receipt of the 3-day notice, the landlord may proceed in prosecuting the unlawful detainer, to which the tenant must respond to within 5 days after service of that lawsuit.

According to one of the bill's authors, Assembly member David Chiu (D-San Francisco), "We not only have a housing crisis, we have a tenant crisis. Tenants in California are facing unprecedented hardships and constantly living under the threat of eviction. Helping tenants stay in their homes in the first place is essential to reducing displacement and homelessness."

This bill will change the time in which a tenant may respond to both a 3-day notice and unlawful detainer suit by excluding judicial holidays, including Saturdays and Sundays. As such, tenants will now have 10 days instead of three to pay back rent or correct a claim that they have violated their lease and once served with an unlawful detainer, tenants will have 14 days instead of 5 to respond to a lawsuit.

As signed by Governor Brown on September 5, 2018, Assembly Bill No. 2343 becomes effective on September 1, 2019.

Property managers are urged to timely update their calendaring for 3-days notices and unlawful detainers when Assembly Bill No. 2343 becomes effective.

Assembly Bill No. 2219

Existing law requires a landlord or their property manager (collectively, the "landlord") to allow a tenant to pay rent or a security deposit by at least one form of payment that is neither cash nor electronic funds transfer, except as specified. Assembly Bill No. 2219 would revise Civil Code Section 1947.3 to now require, subject to specified limitations, a landlord to additionally allow a tenant to pay rent through a third party.

According to the bill's author, Assembly member Phil Ting (D-San Francisco), the bill seeks to prevent homelessness by requiring landlords to accept payments made on behalf of tenants from third parties, including agencies, organizations, caregivers, and family members, provided the third party acknowledges in writing that the payment does not create a new tenancy and does not establish a landlord-tenant relationship between the landlord and the third party. As revised, Civil Code Section 1947.3 identifies the minimum language which the third-party acknowledgement should contain. Failure by a third party to provide the signed acknowledgment to the landlord shall void the obligation of a landlord to accept a tenant's rent tendered by a third party. Importantly, a

purported waiver of the provisions of Civil Code Section 1947.3 is contrary to public policy, and is void and unenforceable.

As signed by Governor Brown on August 28, 2018, Assembly Bill No. 2219 is effective immediately.

Property managers are urged to immediately update their prospective lease agreements and evaluate amending their in-place lease agreements to comply with Assembly Bill No. 2219.