

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 2347 (Kalra)
Version: June 17, 2024
Hearing Date: July 2, 2024
Fiscal: No
Urgency: No
ID

SUBJECT

Summary proceedings for obtaining possession of real property: procedural requirements

DIGEST

This bill expands the time that a tenant of residential real property has to file an answer to an unlawful detainer from five days to ten days, requires that a landlord must file proof of service at least three days before they may request a default, and specifies timelines and procedures for a defendant to file a demurrer or motion to strike.

EXECUTIVE SUMMARY

California is experiencing a significant shortage in available and affordable housing. In light of these circumstances, far too many Californians are finding themselves facing eviction from their landlord. Yet landlords cannot simply change the locks on a tenant and kick the tenant out on their own. Instead, they must pursue an order to obtain possession of the premises from the tenant through filing an unlawful detainer complaint in court. Unlawful detainer proceedings are summary proceedings and utilize shortened timelines and deadlines than most civil cases. For example, a tenant must respond to an unlawful detainer complaint within five days, and the court must set a trial date within 20 days if a trial is requested. Because of this shortened timeline, and because of landlords that do not properly serve tenants with the summons and complaint, many tenants do not file their answer within the case's shortened timeline and thus face eviction without having an opportunity to be heard. This bill addresses these concerns by expanding the timeline for a tenant to respond from five days to ten, and by requiring proof of service to be filed at least three days before a landlord may request a default judgement. This bill also makes a number of changes regarding other motions that may be filed in an unlawful detainer case. AB 2347 is sponsored by the California Rural Legal Assistance Foundation and the Western Center on Law and Poverty, is supported by a variety of other groups, and is opposed by the California Association of Realtors and a variety of housing associations.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that a tenant has committed unlawful detainer when they continue in possession of the property without the landlord's permission after:
 - a) the tenant remains in possession of the premises after the expiration of the term of the tenancy without permission of the landlord or otherwise not permitted by law;
 - b) the tenant's nonpayment of rent and service of a 3-day notice to pay or quit, stating the amount that is due;
 - c) the tenant has breached a covenant of the lease or failed to perform other conditions under the lease, and after service of a 3-day notice requiring performance of such covenants or conditions;
 - d) the tenant has breached a covenant of the lease prohibiting subletting, assignment, or waste; has committed or permitted a nuisance on the premises; or used the premises for an unlawful purpose; and after
 - e) the tenant gives written notice of the tenant's intention to terminate the tenancy, but fails to deliver possession of the premises to the landlord at the specified time. (Code of Civ. Proc. § 1161.)
- 2) Requires a tenant defendant in an unlawful detainer action to respond to a notice of summons within five days, excluding weekends and court holidays, of being served with the notice. Specifies that, if service is completed by mail or the Secretary of State's address confidentiality program, the defendant must file within ten days. (Code of Civ. Proc. § 1167.)
- 3) Requires entry of default and default judgment against the defendant if they fail to appear and defend against the unlawful detainer action, if upon written application of the plaintiff with proof of service of the summons and complaint. Provides that the court must issue a writ of execution, and thereafter the plaintiff may apply to the court for any other relief demanded in the complaint, including costs. (Code of Civ. Proc. 1169.)
- 4) Specifies that, on or before the day set for a defendant's appearance in the unlawful detainer action, the defendant may appear and answer or demur. (Code of Civ. Proc. § 1170.)

This bill:

- 1) Extends the period for a tenant's response to an unlawful detainer complaint and summons from five days to ten days.

- 2) Specifies that, if a defendant served with a summons in an unlawful detainer action does not appear and defend against the complaint at the time appointed, the clerk must enter a default against the defendant, if the plaintiff makes a written application for such ruling no sooner than three days after the filing of the proof of service of summons and complaint.
- 3) Specifies that, if a defendant demurs or files a motion to strike in an unlawful detainer action, the defendant must file the motion within three to seven days after the filing of the notice of motion. Specifies that, for good cause shown, the court may order the hearing on the motion be held on a later date on notice prescribed by the court. Specifies that all moving and supporting papers must be filed between three to seven days before the hearing. Specifies that notice of a demurrer or motion to strike must be provided in compliance with that section and Code of Civil Procedure sections 1010.6 or 10103.
- 4) Specifies that an opposition and reply to an opposition to a demurrer or motion to strike may be made orally at the time of the hearing, or can be made in writing at least one day before the hearing, and must be filed and served upon the other party, on or before the court day before the hearing. Specifies that service of such a filing must be by personal delivery, electronic service, fax transmission, express mail, or other means, as specified, and reasonably calculated to ensure delivery to the other party or parties no later than the close of business the day before the hearing. Provides that a court may consider written opposition filed later than the day before the hearing, at the court's discretion.

COMMENTS

1) Author's statement

According to the author:

AB 2347 seeks to prevent default judgments that evict a tenant based on improper service of summons by requiring landlords to file proof of service with the court and providing tenants with a meaningful amount of time to respond. In eviction cases, because the response period for tenants is uniquely short, proper notice of a court filing is critical. Unfortunately, unscrupulous landlords and process servers claim proper service even though none occurred, known as "sewer service." This is not only a major violation of tenants' constitutional rights, but the result is the extreme consequence of tenants losing their homes. AB 2347 will combat sewer service and provide the necessary time for tenants to actually exercise their rights.

2) California's housing and eviction crisis

Almost 17 million Californians rent their apartments or homes, accounting for about 44 percent of all individuals in the state.¹ However, at the same time, California is experiencing a significant shortage in available housing. Some estimates suggest that the state currently has a shortfall of 1,283,734 affordable and available rental homes.² This combination of high demand and low supply has led California to have incredibly low rental vacancy rates, far below the national average and that of most states.³ The tight supply has resulted in stiff competition for the available housing, and available affordable housing, that exists in many of California's communities. It has also resulted in high and increasing rents, which are far outpacing many Californians' income. Thus, significant numbers of California renters pay a disproportionate amount of their income toward rent and struggle to make ends meet. In 2019, 51.8 percent of California renters were cost-burdened, in which their rent costs exceeded 30 percent of their household income, and 27.3 percent were severely cost-burdened, in which their rent costs exceeded 50 percent of their household income.⁴

In light of these extremely high rents and tight rental markets, far too many Californians are finding themselves facing eviction from their landlord. It is estimated that at least 140,000 eviction cases are filed every year in California, affecting half a million renters.⁵ While the number of eviction cases filed in the state were significantly depressed during the COVID-19 pandemic due to the statewide eviction moratorium, data shows that evictions significantly increased in 2023 with the end of the moratorium.⁶ Data and multiple studies also have demonstrated a strong link between homelessness and the cost of housing and with increases in eviction filings, suggesting that California's increasing rental rates and eviction filings contribute directly to the state's growing population of individuals experiencing homelessness.⁷ When someone

¹ Monica Davalos et al, *California's 17 Million Renters Face Housing Instability and Inequity Before and After COVID-19*, California Budget & Policy Center (Jan. 2021), available at <https://calbudgetcenter.org/resources/renters-face-housing-instability-and-inequity-before-and-after-covid-19/>.

² California Housing Partnership, "Housing Needs Dashboard," Mar. 2024, available at <https://chpc.net/housingneeds/>.

³ Alexa Mae Asperin, California has least amount of vacant housing in US, study shows, FOX 11 News (Aug. 21, 2023), available at <https://www.fox11.com/news/california-vacant-housing-us-census-study>; see also Federal Reserve Bank of St. Louis, Rental Vacancy Rate for California (accessed Jun. 3, 2024), available at <https://fred.stlouisfed.org/series/CARVAC>.

⁴ Davalos *supra* note 1, p. 3.

⁵ Aimee Inglis and Dean Prestion, *California Evictions Are Fact, Frequent, and Underreported*, Tenants Together (May 2018), available at <https://www.tenants-together.org/tt-report-california-evictions-are-fast-frequent-and-underreported>.

⁶ Jeanne Kuang, "Across California, eviction cases have returned to – or surpassed – pre-pandemic levels," Cal Matters (Nov. 21, 2023), available at <https://calmatters.org/housing/homelessness/2023/11/california-evictions-post-pandemic/>.

⁷ Margot Kushel et al, "California Statewide Study of People Experiencing Homelessness, UCSF Benioff Homelessness and Housing Initiative (Jun. 2023), available at <https://homelessness.ucsf.edu/our->

is evicted, they may have difficulty finding new housing due to having an eviction on their record. Moreover, their lives are significantly uprooted as they have to move and lose the housing they have.

3) The eviction process in California

In order to ensure that a tenant's rights are respected and that they have an opportunity to be heard before being forced out of the property they rent, California law closely prescribes when a landlord may evict a tenant and the process that must be followed to do so. Landlords may only evict tenants for specified reasons, including for when a tenant defaults on payment of rent, violates a term of the rental agreement without correcting within three days of notice, and committing waste on the premises. (Code of Civ. Proc. § 1161.) Moreover, landlords cannot simply change the locks on a tenant and kick the tenant out on their own. (Civ. Code § 789.3.) Instead, they must pursue an order to obtain possession of the premises from the tenant through filing an unlawful detainer complaint in court. If the judge or the jury rules for the landlord, the court will issue a writ of possession. The county sheriff will then execute the writ of possession by first notifying the tenant that they have five days to vacate the premises before being forcibly removed. If the tenant wins the case, they will be allowed to remain on the premises, and may even be owed money from the landlord.

An unlawful detainer proceeding is very similar to standard civil proceedings, though with significantly shortened timelines. The unlawful detainer process is governed by Code of Civil Procedure Sections 1159 to 1179. This set of laws and procedures recognize the importance of housing to tenants, and the significant disruption that eviction poses to tenants. However, to balance these interests with the interests of landlords to be able to promptly re-gain possession of their properties if the current tenant is not paying rent or is subject to eviction, the unlawful detainer process is also a summary proceeding, meaning that it is a streamlined, fast-tracked judicial proceeding. The law requires that unlawful detainers take precedence in a court's civil docket. (Code of Civ. Proc. § 1179a.) And data shows that unlawful detainer cases are often very quick proceedings: 60% of unlawful detainers are resolved within 30 days.⁸

In order to evict a tenant, a landlord often must first notify the tenant of the deficiency and provide a short window to correct it. If the tenant is behind on rent, the landlord must notify the tenant of the delinquent rent and request that the tenant pay, and provide for three days, not including weekends and holidays, for the tenant to pay the amount due. (Code of Civ. Procedure § 1161(2).) If the tenant does not pay the amount due within the three days, the landlord may file an unlawful detainer action in court

[impact/studies/california-statewide-study-people-experiencing-homelessness](https://www.pewtrusts.org/en/research-and-analysis/articles/2023/08/22/how-housing-costs-drive-levels-of-homelessness); Alex Horowitz et al, "How housing costs drive levels of homelessness: data from metro areas highlights strong connection," The Pew Charitable Trusts (Aug. 22, 2023), available at <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/08/22/how-housing-costs-drive-levels-of-homelessness>.

⁸ Inglis, *supra* note 5, p. 2.

and request a judicial order that the tenant be evicted. The landlord must also provide three-days' notice and opportunity to correct when a tenant has violated a term of the rental agreement that can be cured. (Code of Civ. Procedure § 1161(3).)

A landlord may then file an unlawful detainer complaint in court. The landlord must serve the tenant with a copy of the complaint and a summons notifying them of the court case. Service must be completed by providing the papers to the tenant in person, or if they are not available in person, by leaving the papers with a person of suitable age at their residence or place of business, or by posting the papers on the property if the person's residence and business addresses cannot be ascertained. (Code of Civ. Proc. §§ 415.10, 415.20.) While the landlord must serve the tenant, proof of service of the summons need only be filed with the court within 60 days of the filing of the complaint, or at the time that the landlord files a motion for default. (Code of Civ. Proc. §§ 1167.1; 1169.)

Generally, a defendant may either answer the complaint, by conceding or contesting the allegations in the complaint, or they can demur. (Code of Civ. Proc. § 1170.) A demurrer alleges that the complaint is legally deficient, such as by failing to state a cognizable claim, rather than challenging the factual allegations in the complaint. The tenant must file a response to the unlawful detainer complaint within five court days of being served with the complaint. (Code of Civ. Proc. §§ 1167 and 1167.3.) However, if service is completed by mail or through the Secretary of State's address confidentiality program, the tenant has an additional five court days to file their response. (Code of Civ. Proc. § 1167(b).) This timeline is markedly shorter than standard civil proceedings, in which the defendant is typically provided 30 days to respond to a complaint. (Code of Civ. Procedure §§ 412.20; 430.40; 471.5.) If a defendant answers the landlord's complaint, and requests a trial, the trial must be held within 20 days of the request for a trial, unless extended by agreement of the parties. (Code of Civ. Proc. § 1170.5.) Parties in unlawful detainer proceedings also may file motions for summary judgement, make motions for discovery, and conduct depositions. (Code of Civ. Proc. §§ 1170.7, 1170.8.) In each of these contexts, the timelines for notice are also shortened.

The consequences for not responding to the complaint can be swift and significant. If the tenant does not provide their answer to the complaint to the court within the required five days, the landlord can immediately request that the judge rule in their favor. This is called a default judgement, and the landlord can make it immediately to the court upon the tenant's failure to answer the complaint, if the landlord makes such a request and includes proof of service of the summons and complaint. (Code of Civ. Proc. § 1169.) In such a scenario, the tenant has forfeited their right to contest the allegations and argue their case, and the court can immediately issue a writ of possession and any other remedies or relief the landlord is requesting, such as an award for unpaid rent and costs. Data suggests around 40% of all unlawful detainer cases

result in a default judgement.⁹ After a default judgement, a tenant's options to reverse the court's decision and set aside the default are limited and not easy to obtain. They must file a motion to set aside the judgement, and generally must do so within six months for specific reasons, like for mistake or for not having received actual notice. (Code of Civ. Proc. §§ 473(b), 473.5.)

4) AB 2347 proposes to provide tenants with greater protections in responding to evictions

a. *AB 2347 provides tenants with more time to respond to unlawful detainer complaints*

AB 2347 proposes to provide tenants with an extra five days to respond to an unlawful detainer complaint, so that they have ten days in total to respond. The author asserts that this is necessary because the current timeline is not sufficient time for the tenant to learn of the allegations, find an attorney, collect evidence, and respond. For tenants, particularly low-income tenants, who lack access to an attorney or cannot afford an attorney, this timeline may be particularly difficult.

Considering that ten days is still considerably less than the 30-day timeline most civil cases allow for a defendant to respond, AB 2347's extension likely is not unduly burdensome on landlords. Additionally, given that the consequences of an eviction can be so dire for a tenant, it may be good public policy to provide the tenant slightly more time than currently provided so that they can find an attorney and respond before receiving a default. There are also other factors which could impact a tenant's ability to respond within the short timeline currently required, for example: they may live in an area far from the courthouse, may not have access to reliable transportation for which to travel to the courthouse or an attorney's office, they may live in an area with few attorneys or legal services providers, or they may live in an area of the state frequented by hazardous weather conditions that make travel difficult. As previously noted, around 40% of all unlawful detainer cases result in a default judgement, in which the tenant did not respond in time to present their case. This Committee generally favors ensuring all parties have a fair chance to be heard and have their day in court; providing tenants more time to respond to an unlawful detainer complaint may help ensure they receive notice of an unlawful detainer action against them and have adequate time to respond.

b. *AB 2347 ensures tenants receive notice of the unlawful detainer action*

AB 2347 also requires that a landlord file proof of service with the court at least three days before filing a motion for a default judgement, instead of the current statutory scheme in which the landlord need only file the proof of service simultaneously with

⁹ Inglis, *supra* note 5, p. 2.

their request for default. The author asserts that this will ensure that tenants and their attorneys know what service the landlord is alleging they completed upon the tenant before the tenant is required to respond to the complaint, so that they may challenge the service in time if it is invalid. If the landlord must file the proof of service with the court, it will be on file on the case and available to the tenant and their attorney. Currently, tenants and their attorneys may not know how the landlord is claiming that they properly served the tenant until it is too late, therefore precluding tenants from challenging the service or fully answering the allegations in the complaint. If a tenant does not know what method of service the landlord is alleging was completed, they will be unable to determine which timeline for their response applies as well, as the timeline changes depending on the method of service.

The author asserts this is particularly important, along with the extended time to respond to the complaint, because of the risk of improper service and landlords and process servers who claim service was completed when none was completed. While it is difficult to know exactly how often tenants are not being properly served in unlawful detainer cases, the astounding 40% of unlawful detainer cases that result in default suggests that some not insignificant number of tenants are not being properly served.

If a tenant never received actual notice of the eviction proceeding against them, the first time that they become aware of the case may be when the court mails them a notice of unlawful detainer action, a form required to be mailed by the court to defendants in unlawful detainers to notify them of the protections from public access to the court records that apply for the first 60 days of the case. (Code of Civ. Proc. § 1161.2.) However, if that is the only document the tenant receives, they will nevertheless not be aware of the specific allegations being levied against them, or when exactly they must provide the court their answer. The tenant can go to the court to review the file on the case to determine the charges, but under current law they would not have access to the proof of service until after the deadline for their response has run and the landlord has filed their motion for default judgement. AB 2347 attempts to address this by requiring the landlord to file the proof of service at least three days before a motion of default, which would help guarantee that the tenant could determine the exact method of service alleged and the remaining time they have to respond by inspecting the court file on the case. The tenant would then also have at least three days before the filing of the motion for default judgement to potentially file their answer or to challenge the sufficiency of the service before the judge enters a default judgement.

The issue of proper service and notice of the charges against a tenant is one that raises significant constitutional concerns, as the requirement that a defendant be served is derived from the Constitution's guarantee of due process. The Fourteenth Amendment of the United States Constitution ensures all persons in the United States protection against deprivation of life, liberty, or property without "due process of law."¹⁰ A core

¹⁰ U.S. Const. Art. XIV, Sec. 1.

aspect of this guarantee of due process is procedural due process, which relates to the adjudicative procedures a person is due in order to be able to ensure that they are heard and protected against a mistaken or unjustified deprivation of life, liberty, or property. As the United States Supreme Court has stated: “for more than a century the central meaning of procedural due process has been clear: parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified.”¹¹ Thus, ensuring that a defendant is properly notified through service is a fundamental constitutional requirement. When a defendant is not served, it is a deprivation of their right to be heard and a miscarriage of justice. The author asserts that AB 2347 will help ensure tenants’ rights to be heard and that they are notified of their landlord’s allegations against them, as is required by this constitutional guarantee of due process.

c. *AB 2347 conforms timelines for ancillary motions*

AB 2347 also makes a variety of changes to the requirements relating to motions to strike or demurrers. It specifies that, if a tenant is going to file a demurrer or a motion to strike, they must do so within three to seven days of the filing of the notice of motion. AB 2347 also requires all moving and supporting papers for such motions to be filed at least three to seven days before the hearing on the motion. A motion to strike is similar to a demurrer in that it is a request that some part of a party’s pleading or answer be removed from the record, such as to prevent consideration of irrelevant or prejudicial allegations. All motions filed within an unlawful detainer case are heard at a hearing separate from a hearing on the complaint, usually on a court’s motions calendar. AB 2347 specifies that, if the court delays the hearing on a demurrer or motion to strike, it must be for good cause shown. AB 2347 also specifies a timeline for any opposition filed in response to the other party’s filing, and for a reply to opposition. It specifies both may be made orally at the hearing, or that if it is being filed in writing before the hearing, it must be filed at least one day before the hearing and properly served. However, AB 2347 provides that the court may consider late written opposition at its discretion. These changes add a more stringent timeline on a tenant’s filing of a demurrer or motion to strike, and for the hearings on such motions. These amendments were made by the author through conversations and negotiations with the California Apartment Association, which is now neutral on the bill.

5) Amendments

The author has agreed to accept amendments in this Committee that will remove Section Two of the bill, and amendments that will specify that the timelines in Section Three of the bill related to motions for demurrer are “court” days. A full mock-up of these amendments are attached at the end of this analysis.

¹¹ *Fuentes v. Shevin* (1972), 407 U.S. 67, 80; *Wilkinson v. Austin* (2005), 545 U.S. 209, 226.

6) Arguments in support

According to the Western Center for Law and Poverty, which is the sponsor of AB 2347:

[AB 2347 ensures] that tenants' due process rights are protected in an eviction action. This bill will require a proof of service of the summons and complaint to be filed prior to a landlord requesting a default judgment and allow tenants a meaningful time to file a response.

The right to defend oneself in court is a fundamental constitutional right. In eviction cases, tenants' due process rights are already at heightened risk of being compromised because the law requires courts to process the cases quickly. When a tenant receives an eviction summons and complaint via personal service, the tenant has just five days to respond. This is a challenging timeline for tenants, especially given that most tenants, and particularly lower-income tenants, lack access to an attorney. If a tenant doesn't file a response in that time, the landlord can get a default judgment against the tenant – i.e., win the case – without the tenant ever getting their day in court. Extending the time to answer by five days will afford tenants more time to seek advice, marshal their evidence and file an appropriate response.

In addition, under current law, the landlord is not required to file proof that they served the summons and complaint until after the tenant's time to respond has expired. As a result, some tenants may know a case has been filed against them – for instance because the court is required to mail them notice of the filing – but have never received the summons and complaint, have been properly served, or know what is being alleged against them. However, they can't go to the court to determine whether, how and on what date the landlord is claiming to have served the tenant because there will be no proof of service on file. Meanwhile, the very short timeline to respond is ticking away.

Without this information, the tenant who waits for proper service does so at their peril. As a result of either mistake (the wrong person was served) or fraud (no service was ever made), a landlord claiming proper service can obtain a default judgment after the time to answer expires, even if the tenant was not served. Too often, the first a tenant learns that the landlord is claiming proper service and that the time to answer has passed is when the sheriff shows up at the tenant's door. By then, the tenant faces an uphill battle of convincing a court to set aside the default judgment and give the tenant a right to be heard in court.

All of this could be avoided by ensuring, as AB 2347 does, that a proof of service is on file with the court several days in advance of the expiration of the time to answer. With that information, a tenant who has not been properly served can determine how or whether to respond. This simple change will preserve the due

process rights of tenants, conserve court resources and ensure fairness and transparency for all parties.

7) Arguments in opposition

According to the California Rental Housing Association, which is opposed to AB 2347:

It is important to note that the vast majority (over 95%) of unlawful detainers are due to non-payment of rent. While last month's Household Census survey shows renters concerned about evictions, California consistently has the LOWEST eviction rates of the 10 most populous states, with 2.2 pre-COVID eviction filings per 100 rental households as compared to 9 per 100 in New York and 16 per 100 in Michigan.

Currently the timeframe is 5 "court" days, but the bill would double this time to 10 "court" days. Unlawful detainer/eviction judgments already take several months in litigation and this bill would unnecessarily add to this timeframe.

Additionally, residents are provided legal resources for a robust and timely response in the unlawful detainer/eviction process.

SUPPORT

California Rural Legal Assistance Foundation (sponsor)
Western Center on Law and Poverty (co-sponsor)
ACLU California Action
Bay Area Regional Health Inequities Initiative
California Housing Partnership Corporation
City of San Jose
Housing Now! CA
Inner City Law Center
Long Beach Forward
Neighborhood Legal Services of Los Angeles County
Techequity Action
The Children's Partnership
Urban Habitat

OPPOSITION

Apartment Association of Orange County
California Association of Realtors
California Rental Housing Association
East Bay Rental Housing Association
Kate Bell Strategies

RELATED LEGISLATION

Pending Legislation: AB 2304 (Lee, 2024) extends requirements that the court only allow access to unlawful detainer records when a landlord prevails within 60 days of the filing of the action to unlawful detainer cases involving mobilehomes. AB 2304 is currently in the Senate Judiciary Committee.

Prior Legislation:

SB 676 (Bates, 2021) would have authorized a defendant in an unlawful detainer action to file a motion to strike on or before the date fixed for the defendant's appearance as a response to the complaint, and would have authorized a party to file a motion for summary adjudication in the same manner as a motion for summary judgement. SB 676 died in the Senate Judiciary Committee.

AB 2343 (Chiu, Ch. 260, Stats. 2018) provided that the three-day notice period a landlord must give a tenant in certain circumstances before filing an unlawful detainer action excludes court holidays and weekends. AB 2343 also clarified that the period in which a defendant must respond to a notice of summons in an unlawful detainer action does not include court holidays and weekends.

AB 2819 (Chiu, Ch. 336, Stats. 2016) provided that a court may dismiss an unlawful detainer proceeding without prejudice if a proof of service of the summons upon the tenant is not filed with the court within 60 days of the complaint's filing.

PRIOR VOTES:

Assembly Floor (Ayes 48, Noes 12)
Assembly Judiciary Committee (Ayes 8, Noes 1)

Mock-up of Proposed Amendments to AB 2347 (Kalra)

(Amendments may be subject to technical changes by Legislative Counsel)

Mock-up based on Version Number 95 - Amended Senate 6/17/24

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1167 of the Code of Civil Procedure is amended to read:

1167. (a) The summons shall be in the form specified in Section 412.20 except that when the defendant is served, the defendant's response shall be filed within 10 days, excluding Saturdays and Sundays and other judicial holidays, after the complaint is served upon the defendant.

(b) If service is completed by mail or in person through the Secretary of State's address confidentiality program under Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, the defendant shall have an additional five court days to file a response.

(c) Except as otherwise provided in this section, the summons shall be issued and served and returned in the same manner as a summons in a civil action.

~~**SEC. 2.** Section 1169 of the Code of Civil Procedure is amended to read:~~

~~**1169.** (a) If, at the time appointed, any defendant served with a summons does not appear and defend, the clerk, upon written application of the plaintiff no sooner than three court days following the filing of the proof of service of summons and complaint, shall enter the default of any defendant so served, and, if requested by the plaintiff, immediately shall enter judgment for restitution of the premises and shall issue a writ of execution thereon. The application for default judgment and the default judgment shall include a place to indicate that the judgment includes tenants, subtenants, if any, named claimants, if any, and any other occupants of the premises. Thereafter, the plaintiff may apply to the court for any other relief demanded in the complaint, including the costs, against the defendant, or defendants, or against one or more of the defendants.~~

~~**SEC. 3**~~**SEC. 2.** Section 1170 of the Code of Civil Procedure is amended to read:

1170. (a) On or before the day fixed for their appearance, the defendant may appear and answer or demur.

(b) (1) Notwithstanding any other law, in any action under this chapter in which the defendant demurs or moves to strike the complaint or any portion thereof, the time for making the motion shall be not less than three court days nor more than seven court days after the filing of the notice of motion. For good cause shown, the court may order the hearing held on a later date on notice prescribed by the court. All moving and supporting papers shall be filed not less than three court days nor more than seven court days before the hearing. Notice of a demurrer or motion to strike shall be given in compliance with this section and Section 1010.6 or 1013.

(2) An opposition and reply to an opposition may be made orally at the time of the hearing. If a party seeks to have a written opposition considered in advance of the hearing, the written opposition shall be filed and served on or before the court day before the hearing. Service shall be by personal delivery, electronic service, fax transmission, express mail, or other means consistent with Sections 1010, 1010.6, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties no later than the close of business on the court day before the hearing. The court, in its discretion, may consider written opposition filed later.