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AB-2347 Summary proceedings for obtaining possession of real property: procedural requirements.
(2023-2024)

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Assembly Bill No. 2347

CHAPTER 512

An act to amend Sections 1167 and 1170 of the Code of Civil Procedure, relating to summary proceedings.

[Approved by Governor September 24, 2024. Filed with Secretary of State September 24, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2347, Kalra. Summary proceedings for obtaining possession of real property: procedural requirements.

Existing law requires a defendant, in a summary proceeding for obtaining possession of real property, to file a response within five days, excluding specified days, after the complaint is served on the defendant. Existing law permits a defendant in such a proceeding to, on or before the day fixed for their appearance, appear and answer or demur.

This bill would extend the time in which a defendant, in a summary proceeding for obtaining possession of real property, must file a response from 5 to 10 days, excluding specified days, after the complaint is served on the defendant. The bill would specify additional procedures and deadlines for filing a demurrer or a motion to strike a complaint as well as an opposition to and reply in support of such a motion.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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 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, demur, or move to strike any portion of the complaint.

(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 hearing on the motion shall be not less than five 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 accompany the notice of the motion and shall be served 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.