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AB-1795 Civil actions: unlawful detainer: court records. (2019-2020)

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AMENDED IN ASSEMBLY MARCH 28, 2019

CALIFORNIA LEGISLATURE— 2019-2020 REGULAR SESSION

ASSEMBLY BILL

No. 1795

Introduced by Assembly Member Kamlager-Dove

February 22, 2019

An act to amend Section ~~50466 of the Health and Safety code~~, 1161.2 of the Code of Civil Procedure and to amend Section 7060.6 of the Government Code, relating to ~~housing~~ civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1795, as amended, Kamlager-Dove. ~~Housing developments: pet permissibility~~. Civil actions: unlawful detainer: court records.

Existing law provides summary proceedings for obtaining possession of real property in specified cases, including a case in which an owner of real property seeks to displace, on the ground of unlawful detainer, a tenant or lessee of accommodations that the owner has withdrawn from rent or lease. Existing law requires the clerk of the court to allow access to the records of those summary proceedings, as specified.

This bill would prohibit the clerk from allowing access to the records of an unlawful detainer action described above, except as specified. The bill would require the owner in such a case to identify the type of unlawful detainer action in the caption of the owner's complaint.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

~~Existing law requires the Department of Housing and Community Development to require each housing development, as defined, that is financed on or after January 1, 2018, pursuant to the Zenovich Moscone-Chacon Housing and Home Finance Act, to authorize a resident of the housing development to own or otherwise maintain one or more common household pets, as defined, within the resident's dwelling unit, subject to applicable state laws and local government ordinances related to public health, animal control, and animal anticruelty.~~

~~This bill would make a nonsubstantive change to this provision.~~

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

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

SECTION 1. Section 1161.2 of the Code of Civil Procedure is amended to read:

1161.2. (a) (1) The clerk shall allow access to limited civil case records filed under this chapter, including the court file, index, and register of actions, only as follows:

(A) To a party to the action, including a party's attorney.

(B) To a person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any.

(C) To a resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency.

(D) To a person by order of the court, which may be granted ex parte, on a showing of good cause.

(E) To any person by order of the court if judgment is entered for the plaintiff after trial more than 60 days since the filing of the complaint. The court shall issue the order upon issuing judgment for the plaintiff.

(F) Except as provided in subparagraph (G), to any other person 60 days after the complaint has been filed if the plaintiff prevails in the action within 60 days of the filing of the complaint, in which case the clerk shall allow access to any court records in the action. If a default or default judgment is set aside more than 60 days after the complaint has been filed, this section shall apply as if the complaint had been filed on the date the default or default judgment is set aside.

(G) In the case of a complaint involving residential property based on Section 1161a as indicated in the caption of the complaint, as required in subdivision (c) of Section 1166, to any other person, if 60 days have elapsed since the complaint was filed with the court, and, as of that date, judgment against all defendants has been entered for the plaintiff, after a trial.

(H) Notwithstanding subparagraph (G), in the case of a complaint involving residential property described in Section 7060.6 of the Government Code, as indicated in the caption of the complaint pursuant to subdivision (a) of Section 7060.6 of the Government Code, the clerk shall not allow access to case records in the action, except pursuant to subparagraphs (A) to (D), inclusive.

(2) This section shall not be construed to prohibit the court from issuing an order that bars access to the court record in an action filed under this chapter if the parties to the action so stipulate.

(b) (1) For purposes of this section, "good cause" includes, but is not limited to, both of the following:

(A) The gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code.

(B) The gathering of evidence by a party to an unlawful detainer action solely for the purpose of making a request for judicial notice pursuant to subdivision (d) of Section 452 of the Evidence Code.

(2) It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subparagraph (D) of paragraph (1) of subdivision (a).

(c) Upon the filing of a case so restricted, the court clerk shall mail notice to each defendant named in the action. The notice shall be mailed to the address provided in the complaint. The notice shall contain a statement that an unlawful detainer complaint (eviction action) has been filed naming that party as a defendant, and that access to the court file will be delayed for 60 days except to a party, an attorney for one of the parties, or any other person who (1) provides to the clerk the names of at least one plaintiff and one defendant in the action and provides to the clerk the address, including any applicable apartment, unit, or space number, of the subject premises, or (2) provides to the clerk the name of one of the parties in the action or the case number and can establish through proper identification that ~~he or she~~ [the person requesting access to the court file](#) lives at the subject premises. The notice shall also contain a statement that access to the court index, register of actions, or other records is not permitted until 60 days after the complaint is filed, except pursuant to an order upon a showing of good cause for access. The notice shall contain on its face the following information:

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

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

(3) The following statement:

"The State Bar of California certifies lawyer referral services in California and publishes a list of certified lawyer referral services organized by county. To locate a lawyer referral service in your county, go to the State Bar's ~~Internet Web site~~ [internet website](#) at www.calbar.ca.gov or call 1-866-442-2529."

(4) The name and telephone number of an office or offices funded by the federal Legal Services Corporation or qualified legal services projects that receive funds distributed pursuant to Section 6216 of the Business and Professions Code that provide legal services to low-income persons in the county in which the action is filed. The notice shall state that these telephone numbers may be called for legal advice regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the complaint, excluding weekends and holidays. One copy of the notice shall be addressed to "all occupants" and mailed separately to the subject premises. The notice shall not constitute service of the summons and complaint.

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

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

(f) This section does not alter any provision of the Evidence Code.

SEC. 2. Section 7060.6 of the Government Code is amended to read:

7060.6. If an owner seeks to displace a tenant or lessee from accommodations withdrawn from rent or lease pursuant to this chapter by an unlawful detainer proceeding, ~~the~~ **the following shall apply:**

(a) **The owner shall state the following in the caption of the complaint: "Civil Action Described in Section 7060.6 of the Government Code."**

(b) **The** tenant or lessee may appear and answer or demur pursuant to Section 1170 of the Code of Civil Procedure and may assert by way of defense that the owner has not complied with the applicable provisions of this chapter, or statutes, ordinances, or regulations of public entities adopted to implement this chapter, as authorized by this chapter.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which amends Section 1161.2 of the Code of Civil Procedure, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the reputation and ability to access housing of a responsible tenant or lessee who is displaced, through unlawful detainer proceedings, from accommodations withdrawn from rent or lease by an owner, it is necessary to restrict public access to the records of those proceedings.

~~**SECTION 1. Section 50466 of the Health and Safety Code is amended to read:**~~

~~**50466.(a)The department shall require each housing development that is financed on or after January 1, 2018, pursuant to this division, to authorize a resident of the housing development to own or otherwise maintain one or more common household pets within the resident's dwelling unit, subject to any applicable state laws and local government ordinances related to public health, animal control, and animal anticruelty.**~~

~~(b)For purposes of this section, "common household pet" means a domesticated animal, such as a dog or cat, that is commonly kept in the home for pleasure rather than for commercial purposes.~~

~~(c)Nothing in this section shall be construed to limit or otherwise affect other statutes or laws that require reasonable accommodations to be made for an individual with a disability who maintains an animal to provide assistance, service, or support.~~