

LEGAL ALERT: NEW LAW GIVES TENANTS MORE TIME TO RESPOND TO EVICTION NOTICES AND UNLAWFUL DETAINERS

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Effective September 1, 2019, changes to California law will provide both commercial and residential tenants with more time to respond to default notices and lawsuits in connection with unlawful detainer eviction proceedings.

Previously, California laws governing unlawful detainer actions provided tenants three *calendar* days following service of a landlord's default notice to cure a lease violation and five *calendar* days following service of a lawsuit for unlawful detainer to file a written response to the lawsuit with the Court. Under the revised statutes, "calendar days" in eviction proceedings have been changed to "court business days." Going forward, a tenant's time to respond to default notices and the service of a lawsuit may be extended as Saturdays, Sundays and judicially observed holidays will not be included in the calculation of a tenant's response times. (This law does not change the counting of days in a contract, which is different).

Under the new laws, if a Three-Day Notice to Pay Rent or Surrender Possession is served upon a tenant on a Friday, it will not expire until the close of business on Wednesday (Saturday and Sunday will be excluded from the calculation of the tenant's response days). If a judicial holiday falls within the response time, it will also extend the expiration of the Notice. Under the previous law, you could serve a Three-Day Notice on a Friday, and the tenant would have to perform by Monday.

Landlords and tenants are free to contractually modify the time periods required by statute to extend (but not shorten) the period for a default notice. If the lease provides a tenant with a longer response time than is required under the revised statutes, the lease provision will control. For example, if a lease specifies that a tenant is to receive ten calendar days' notice of

default, that time period will be enforceable and will be applied despite the changes to the law. However, a provision in a lease which gives the tenant less time to respond to a notice of default than required by the revised statute will not be enforceable and the longer response period under the revised statute will control.

The holiday schedule identifying Judicial Holidays is updated each year on the website <https://www.courts.ca.gov/holidays.htm> for the Judicial Branch of California. Current judicial holidays include the following:

New Year's Day
Martin Luther King, Jr. Day
President Abraham Lincoln's Birthday
President George Washington's Birthday/Presidents Day
Cesar Chavez Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day

If you have questions regarding this new law or if you would like assistance with other property management legal issues, please contact attorney Alison Geddes.