

AMENDED IN ASSEMBLY APRIL 10, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2485**

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**Introduced by Assembly Members Dickinson and Ridley-Thomas**

February 21, 2014

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An act to amend Section 3486 of, and to add and repeal Section 3486.5 of the Civil Code, relating to civil-law law, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2485, as amended, Dickinson. Unlawful detainer: nuisance: controlled substances.

Existing law establishes the criteria for determining when a tenant is guilty of unlawful detainer, including conduct involving illegally selling a controlled substance, or the commission of an offense involving the unlawful possession or use of illegal weapons or ammunition or the use of the premises to further that purpose. Any of those acts may be deemed to constitute committing a nuisance on the premises. Existing law authorizes, in the County of Los Angeles only, a city prosecutor or city attorney to file an action for unlawful detainer in the name of the people against any person who is in violation of the nuisance or the illegal purpose provisions of the unlawful detainer provision described above, with respect to controlled substances.

This bill would, until January 1, 2019, extend the unlawful detainer provisions above regarding illegally selling controlled substances, applicable only to the County of Los Angeles, to also include the County of Sacramento. The bill would also, until January 1, 2019, require the

County of Sacramento to comply with specified reporting requirements to the California Research Bureau, on or before January 20 annually, regarding prosecutions and evictions carried out under these provisions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Sacramento.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3486 of the Civil Code is amended to  
 2 read:  
 3 3486. (a) To abate the nuisance caused by illegal conduct  
 4 involving a controlled substance purpose on real property, the city  
 5 prosecutor or city attorney may file, in the name of the people, an  
 6 action for unlawful detainer against any person who is in violation  
 7 of the nuisance or illegal purpose provisions of subdivision 4 of  
 8 Section 1161 of the Code of Civil Procedure, with respect to that  
 9 controlled substance purpose. In filing this action, which shall be  
 10 based upon an arrest report or other report by a law enforcement  
 11 agency, reporting an offense committed on the property and  
 12 documented by the observations of a police officer, the city  
 13 prosecutor or city attorney shall use the procedures set forth in  
 14 Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of  
 15 the Code of Civil Procedure, except that in cases filed under this  
 16 section, the following also shall apply:  
 17 (1) (A) Prior to filing an action pursuant to this section, the city  
 18 prosecutor or city attorney shall give 30 calendar days' written  
 19 notice to the owner, requiring the owner to file an action for the  
 20 removal of the person who is in violation of the nuisance or illegal

1 purpose provisions of subdivision 4 of Section 1161 of the Code  
2 of Civil Procedure with respect to a controlled substance purpose.

3 (B) This notice shall include sufficient documentation  
4 establishing a violation of the nuisance or illegal purpose provisions  
5 of subdivision 4 of Section 1161 of the Code of Civil Procedure  
6 and an advisement to the owner of the assignment provision  
7 contained in subparagraph (D). The notice shall be served upon  
8 the owner and the tenant in accordance with subdivision (e).

9 (C) The notice to the tenant shall, in at least 14-point bold type,  
10 meet the following requirements:

11 (i) The notice shall contain the following language:

12  
13 “(Date)

14  
15 (Name of tenant)

16 (Address of tenant)

17  
18 Re: Civil Code Section 3486

19  
20 Dear (name of tenant):

21  
22 This letter is to inform you that an eviction action may soon be  
23 filed in court against you for suspected drug activity. According  
24 to state law, Civil Code Section 3486 provides for eviction of  
25 persons engaging in such conduct, as described below.

26  
27 (Name of police department) records indicate that you, (name  
28 of arrestee), were arrested on (date) for violations of (list violations)  
29 on (address of property).

30  
31 A letter has been sent to the property owner(s) advising of your  
32 arrest and the requirements of state law, as well as the landlord’s  
33 option to assign the unlawful detainer action to the (name of city  
34 attorney or prosecutor’s office).

35  
36 A list of legal assistance providers is provided below. Please  
37 note, this list is not exclusive and is provided for your information  
38 only; the (name of city attorney or prosecutor’s office) does not  
39 endorse or recommend any of the listed agencies.

40

1 Sincerely,

2

3 (Name of deputy city attorney or city prosecutor)

4 Deputy City (Attorney or Prosecutor)

5

6 Notice to Tenant: This notice is not a notice of eviction. You  
7 should call (name of the city attorney or prosecutor pursuing the  
8 action) at (telephone number) or a legal assistance provider to stop  
9 the eviction action if any of the following is applicable:

- 10 (1) You are not the person named in this notice.
- 11 (2) The person named in the notice does not live with you.
- 12 (3) The person named in the notice has permanently moved.
- 13 (4) You do not know the person named in the notice.
- 14 (5) You want to request that only the person involved in the  
15 nuisance be evicted, allowing the other residents to stay.
- 16 (6) You have any other legal defense or legal reason to stop the  
17 eviction action.

18 A list of legal assistance providers is attached to this notice.  
19 Some provide free legal assistance if you are eligible.”

20

21 (ii) The notice shall be provided to the tenant in English and,  
22 as translated, in all of the languages identified in subdivision (a)  
23 of Section 1632 of the Civil Code.

24 (D) The owner shall, within 30 calendar days of the mailing of  
25 the written notice, either provide the city prosecutor or city attorney  
26 with all relevant information pertaining to the unlawful detainer  
27 case, or provide a written explanation setting forth any  
28 safety-related reasons for noncompliance, and an assignment to  
29 the city prosecutor or city attorney of the right to bring an unlawful  
30 detainer action against the tenant.

31 (E) The assignment shall be on a form provided by the city  
32 prosecutor or city attorney and may contain a provision for costs  
33 of investigation, discovery, and reasonable attorney’s fees, in an  
34 amount not to exceed six hundred dollars (\$600).

35 (F) If the city prosecutor or city attorney accepts the assignment  
36 of the right of the owner to bring the unlawful detainer action, the  
37 owner shall retain all other rights and duties, including the handling  
38 of the tenant’s personal property, following issuance of the writ  
39 of possession and its delivery to and execution by the appropriate  
40 agency.

1 (2) Upon the failure of the owner to file an action pursuant to  
2 this section, or to respond to the city prosecutor or city attorney  
3 as provided in paragraph (1), or having filed an action, if the owner  
4 fails to prosecute it diligently and in good faith, the city prosecutor  
5 or city attorney may file and prosecute the action, and join the  
6 owner as a defendant in the action. This action shall have  
7 precedence over any similar proceeding thereafter brought by the  
8 owner, or to one previously brought by the owner and not  
9 prosecuted diligently and in good faith. Service of the summons  
10 and complaint upon the defendant owner shall be in accordance  
11 with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the  
12 Code of Civil Procedure.

13 (3) If a jury or court finds the defendant tenant guilty of unlawful  
14 detainer in a case filed pursuant to paragraph (2), the city  
15 prosecutor or city attorney may be awarded costs, including the  
16 costs of investigation and discovery and reasonable attorney's fees.  
17 These costs shall be assessed against the defendant owner, to whom  
18 notice was directed pursuant to paragraph (1), and once an abstract  
19 of judgment is recorded, it shall constitute a lien on the subject  
20 real property.

21 (4) Nothing in this section shall prevent a local governing body  
22 from adopting and enforcing laws, consistent with this article,  
23 relating to drug abatement. Where local laws duplicate or  
24 supplement this section, this section shall be construed as providing  
25 alternative remedies and not preempting the field.

26 (5) Nothing in this section shall prevent a tenant from receiving  
27 relief against a forfeiture of a lease pursuant to Section 1179 of  
28 the Code of Civil Procedure.

29 (b) In any proceeding brought under this section, the court may,  
30 upon a showing of good cause, issue a partial eviction ordering  
31 the removal of any person, including, but not limited to, members  
32 of the tenant's household if the court finds that the person has  
33 engaged in the activities described in subdivision (a). Persons  
34 removed pursuant to this section may be permanently barred from  
35 returning to or reentering any portion of the entire premises. The  
36 court may further order as an express condition of the tenancy that  
37 the remaining tenants shall not give permission to or invite any  
38 person who has been removed pursuant to this subdivision to return  
39 to or reenter any portion of the entire premises.

1 (c) For the purposes of this section, “controlled substance  
2 purpose” means the manufacture, cultivation, importation into the  
3 state, transportation, possession, possession for sale, sale,  
4 furnishing, administering, or giving away, or providing a place to  
5 use or fortification of a place involving, cocaine, phencyclidine,  
6 heroin, methamphetamine, or any other controlled substance, in a  
7 violation of subdivision (a) of Section 11350, Section 11351,  
8 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or  
9 Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5,  
10 11379.6, or 11383 of the Health and Safety Code.

11 (d) Notwithstanding subdivision (b) of Section 68097.2 of the  
12 Government Code, a public entity may waive all or part of the  
13 costs incurred in furnishing the testimony of a peace officer in an  
14 unlawful detainer action brought pursuant to this section.

15 (e) The notice and documentation described in paragraph (1)  
16 of subdivision (a) shall be given in writing and may be given either  
17 by personal delivery or by deposit in the United States mail in a  
18 sealed envelope, postage prepaid, addressed to the owner at the  
19 address known to the public entity giving the notice, or as shown  
20 on the last equalized assessment roll, if not known. Separate notice  
21 of not less than 30 calendar days and documentation shall be  
22 provided to the tenant in accordance with this subdivision. Service  
23 by mail shall be deemed to be completed at the time of deposit in  
24 the United States mail. Proof of giving the notice may be made by  
25 a declaration signed under penalty of perjury by any employee of  
26 the public entity which shows service in conformity with this  
27 section.

28 (f) This section shall apply only in the County of Los Angeles  
29 to any court having jurisdiction over unlawful detainer cases  
30 involving real property situated in the City of Los Angeles.

31 (g) (1) Notwithstanding subdivision (f), this section shall apply  
32 in the County of Sacramento to any court having jurisdiction over  
33 unlawful detainer cases involving real property situated in the  
34 County of Sacramento.

35 (2) This subdivision shall remain in effect only until January 1,  
36 2019, and as of that date is repealed, unless a later enacted statute,  
37 that is enacted before January 1, 2019, deletes or extends that date.

38 SEC. 2. Section 3486.5 is added to the Civil Code, to read:

1 3486.5. (a) Section 3486 shall apply in the County of  
2 Sacramento, in any court with jurisdiction over unlawful detainer  
3 cases involving real property situated in the City of Sacramento.

4 (b) (1) In a template provided by the California Research  
5 Bureau, the city attorney and city prosecutor of the County of  
6 Sacramento shall provide to the California Research Bureau the  
7 following information pertaining to cases filed pursuant to Section  
8 3486:

9 (A) The number of notices provided pursuant to paragraph (1)  
10 of subdivision (a) of Section 3486.

11 (B) For each notice provided pursuant to paragraph (1) of  
12 subdivision (a) of Section 3486, the following information:

13 (i) The name and age, as provided by the landlord, of each  
14 person residing at the noticed address.

15 (ii) Whether the person has previously received a notice pursuant  
16 to this section from the reporting city attorney or city prosecutor,  
17 and if so, whether the tenant vacated or was evicted as a result.

18 (iii) The date the initial notice was issued.

19 (C) Whether the tenant has previously been arrested (other than  
20 an arrest that is the basis of this notice) for any of the offenses  
21 specified in subdivision (c) of Section 3486.

22 (D) Whether, upon notice, the case was filed by the owner, and  
23 if so, the filing date and case number.

24 (E) Whether the assignment was executed by the owner to the  
25 city attorney or prosecutor.

26 (F) Whether 3-day, 30-day, or 60-day notices were issued by  
27 the city attorney or city prosecutor, and if so, the date each was  
28 issued.

29 (G) Whether the case was filed by the city attorney or city  
30 prosecutor, and if so, the filing date and case number.

31 (H) Whether the owner is joined as a defendant pursuant to this  
32 section.

33 (I) For the cases filed by an owner, the city attorney, or the city  
34 prosecutor, the following information:

35 (i) If a judgment was entered, the date of the judgment, whether  
36 the judgment ordered an eviction or partial eviction, and whether  
37 the judgment was a default judgment, stipulated judgment, or  
38 judgment following trial.

39 (ii) Whether the case was withdrawn or the tenant prevailed.

- 1 (iii) Whether there was another disposition, and the type of  
2 disposition.
- 3 (iv) Whether the defendant was represented by counsel.
- 4 (v) Whether the case was a trial by the court or a trial by jury.
- 5 (vi) Whether an appeal was taken, and, if so, the result of the  
6 appeal and the date of the result.
- 7 (vii) Whether a partial eviction was requested, and whether the  
8 court ordered a partial eviction.
- 9 (J) For cases in which a notice was provided pursuant to  
10 subdivision (a) of Section 3486, but no case was filed, the  
11 following information:
  - 12 (i) Whether a tenant voluntarily vacated subsequent to receiving  
13 the notice, and if so, the date vacated.
  - 14 (ii) Whether a tenant vacated a unit prior to the providing of the  
15 notice, and if so, the date vacated.
  - 16 (iii) Whether the notice provided pursuant to subdivision (a) of  
17 Section 3486 was erroneously sent to the tenant. This shall include  
18 a list of the reasons, if known, for the erroneously sent notice, such  
19 as reliance on information on the suspected violator’s name or  
20 address that was incorrect, a clerical error, or other reason.
  - 21 (iv) Whether there was another resolution and the type of  
22 resolution.
- 23 (K) The street address, city, and ZIP Code of residence where  
24 the tenants relocated, to the extent known.
- 25 (2) (A) Information compiled pursuant to this section shall be  
26 reported annually to the California Research Bureau on or before  
27 January 20.
- 28 (B) The California Research Bureau shall thereafter submit a  
29 brief report to the Senate and Assembly Committees on Judiciary  
30 once on or before March 20, 2016, and once on or before March  
31 20, 2018, summarizing the information collected pursuant to this  
32 section and evaluating the merits of the pilot programs established  
33 by this section. The report for this section shall be submitted in  
34 compliance with Section 9795 of the Government Code and may  
35 be combined with the California Research Bureau report submitted  
36 for the pilot program established by Section 3485. The 2018 report  
37 shall indicate whether the City of Sacramento has regularly  
38 reported to the bureau.

1 (3) Personally identifiable information submitted to the  
2 California Research Bureau pursuant to this section shall be  
3 confidential and shall not be publicly disclosed.

4 (c) This section shall remain in effect only until January 1, 2019,  
5 and as of that date is repealed, unless a later enacted statute, that  
6 is enacted before January 1, 2019, deletes or extends that date.

7 SEC. 3. The Legislature finds and declares that a special law  
8 is necessary and that a general law cannot be made applicable  
9 within the meaning of Section 16 of Article IV of the California  
10 Constitution because the City of Sacramento has a unique and  
11 historic role in reporting data regarding city attorney sponsored  
12 unlawful detainer actions and outcomes to the California Research  
13 Bureau in assessing the effectiveness of this program.

14 SEC. 4. If the Commission on State Mandates determines that  
15 this act contains costs mandated by the state, reimbursement to  
16 local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.

19 *SEC. 5. This act is an urgency statute necessary for the*  
20 *immediate preservation of the public peace, health, or safety within*  
21 *the meaning of Article IV of the Constitution and shall go into*  
22 *immediate effect. The facts constituting the necessity are:*

23 *In order that the City of Sacramento have all the tools they need*  
24 *for the protection of public safety at the earliest time, it is necessary*  
25 *that the bill go into effect immediately.*