

INDUSTRY ALERT **THREE DAY NOTICE FORMS**

ALL NOTICES WILL NOW BE "BUSINESS" DAY NOTICES

Assembly Bill 2343 goes into effect on September 1, 2019. This is a major change in the way that days are counted when a notice is served. Your forms will need to be revised.

Current law in California provides that a landlord may serve a 3-day Notice to Pay Rent or Quit when a tenant's rent has become due and then gone delinquent. A landlord may also serve a 3-day Notice to Cure Covenant or Quit if a tenant violates another provision of the lease. The exception to the 3-day notice is when the lease between the parties contains specific language providing for a different number of days. As an example, many commercial leases specifically provide for a 5-day notice for nonpayment of rent, a 10-day notice for breach of a covenant and a variety of other deadlines.

The new law provides that Saturdays, Sundays and all judicial holidays shall be excluded and not counted. Only official business days will be included in the notice period. Here are some examples:

Serve a notice on Monday:

You will count Tuesday, Wednesday and Thursday. Your notice will expire Thursday night and you may proceed with an action for Unlawful Detainer on Friday.

Serve a notice on Tuesday:

You will count Wednesday, Thursday and Friday. Your notice will expire on Friday night and you may file an action for Unlawful Detainer on Monday.

Serve a notice on Friday:

You will count Monday, Tuesday and Wednesday. Your notice will expire on Wednesday night and you may file an action on Thursday.

Holidays:

Holidays will differ each year depending on how they fall on the calendar. Just know that you will “not” count any day that the court is closed.

NOTICES FOR AN ALTERNATE NUMBER OF DAYS.

While Assembly Bill 2343 does not specifically state that the new method of counting days applies to notices for an alternate number of days, i.e. 5-day notice, etc., we expect that judges will assume the new law for intended to cover all Pay or Quit and Cure Covenant or Quit Notices.

NOTICE FORMS NEED TO BE REVISED FOR BOTH RENT AND COVENANT NOTICES.

Your notice forms need to be revised to reflect that, in accordance with the new law, you are counting “business” days as opposed to calendar days. If you leave your notice as-is but count the days correctly, your notice will be subject to interpretation and may be deemed ambiguous. In other words, if you are counting correctly but your notice doesn’t state that, you have created an ambiguity. Revising your forms will protect you from frivolous motions and stall tactics.

Please contact our office should you have any questions.

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Any information contained herein is intended for informational purposes only and should not be construed as legal advice. Seek competent counsel for advice on any legal matter.

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