
CONSENT

Bill No: AB 2042
Author: Kalra (D)
Amended: 6/10/26 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 13-0, 6/23/26

AYES: Umberg, Niello, Allen, Ashby, Caballero, Durazo, Laird, Reyes, Stern,
Valladares, Wahab, Weber Pierson, Wiener

ASSEMBLY FLOOR: 76-0, 5/4/26 - See last page for vote

SUBJECT: Civil actions: setting aside default or default judgment

SOURCE: California Low-Income Consumer Coalition

DIGEST: This bill clarifies provisions of the law that were codified through AB 747 (Kalra, Chapter 563, Statutes of 2025).

ANALYSIS:

Existing law:

- 1) Establishes the Service of Process Accountability, Reform, and Equity Act (SPARE Act), which provides that the registry of process servers be publicly available; sets a clear standard for what qualifies as “reasonable diligence” for several service statutes, including attempting personal delivery of the summons, in good faith, on at least three occasions on three different days at three different times; requires specific corroborating evidence that service was in fact effectuated in the manner required; and authorizes a party to an action to bring a motion to vacate a default judgment that is void for lack of proper service at any time after entry of the judgment. (Code Civil (Civ.) Procedure (Proc.) §§ 415.20, 415.45, 417.10, 417.40, 473, 473.2, 473.5, 585.)
- 2) Permits a defendant in a debt enforcement action, brought by a buyer of consumer debt who has obtained a default or default judgment against the

defendant, to file a motion to set aside the default or default judgment and for leave to defend the action if the defendant did not receive actual notice of the action in time to defend against it. Such a motion is required to be filed within 6 years after entry of the default or default judgment or 180 days after the first actual notice of the action, or, in the case of identity theft or mistaken identity, within a reasonable amount of time but in no case later than 180 days after the first actual notice of the action. (Civ. Code § 1788.61.)

This bill:

- 1) Clarifies in Civil Code Section 1788.61, described in 2), above, that a defendant who did not receive actual notice may file a motion to set aside and for leave to defend even if the service of summons of the action was lawfully effected.
- 2) Clarifies that nothing in Code of Civil Procedure Section 473.2 (Section 473.2) alters a court's existing authority to adjudicate a motion made pursuant to Code of Civil Procedure Section 473, or otherwise to vacate or set aside a judgement, with respect to a proof of service filed before January 1, 2027.
- 3) Specifies Section 473.2 applies to service attempted or completed on or after January 1, 2027.
- 4) Clarifies in Section 473.2 that a party who is not served with a summons and complaint in accordance with this chapter may move for dismissal as permitted by existing law.

Comments

The provisions of AB 747 (Kalra, Chapter 563, Statutes of 2025) go into effect on January 1, 2027. This Committee passed AB 747 last year and the bill was signed into law by the Governor. The bill strengthened procedural protections for defendants by increasing accountability for process servers, clarifying the standard for substituted service, and enhancing access to post-judgment relief when service was unlawful.

The author now brings AB 2042, at the request of stakeholders, to provide clarifying amendments to the provisions that go into effect in January 2027.

This bill is sponsored by the California Low Income Consumer Coalition and supported by the California Apartment Association.

According to the author:

Proper service of summons and complaints is a fundamental requirement of due process and ensures defendants are notified of a claim against them so they can properly prepare a defense. To address concerns around fraudulent service, the Legislature passed AB 747, which modernized and standardized service of process by requiring evidence of personal and substitute service, defining reasonable diligence when attempting personal service, and clarifying the timing and method of challenging defective service.

However, input from stakeholders since the bill's passage has suggested that clarifying changes are needed. As such, AB 2042 provides clearer guidance to the courts as it relates to the implementation of AB 747 (Kalra, Chapter 563, Statutes of 2025). Specifically, the bill clarifies AB 747 does not create a new basis for dismissal upon the vacating or setting aside of a default judgment, does not alter a court's existing authority with respect to cases filed before January 1, 2027, and does not alter the Fair Debt Buying Practices Act with respect to lawsuits that were lawfully served.

The California Low-Income Consumer Coalition, sponsors of this bill, writes the following:

Last year's SPARE Act addressed the pernicious and long-standing problem of fraudulent service of process, a practice that contributes to over 90% of debt collection defendants not responding to lawsuits against them. The Act created a clear standard for effecting and proving lawful service and codified California appellate case law that allows a Defendant to challenge at any time a judgment obtained without proper service (i.e., there is no time limit on when a person can ask a court to vacate a judgment obtained through unlawful service of process). The Act also codified existing case law that clarifies the procedure for defendants to follow when seeking to vacate judgments against them in cases when they were never served with the lawsuit.

AB 2042 specifies that AB 747's procedure for defendants to vacate judgments obtained without lawful services applies only to proofs of service filed after the effective date of AB 747 (January 1, 2027).

AB 2042 also includes amendments designed to facilitate implementation of the bill by the Judicial Council of California.

The California Apartment Association is in support of the bill and states that the bill “will ensure that the appropriate remedy for improper service is to set aside the default or quash service—not to dismiss the case outright. Allowing dismissal invites delay tactics, wastes valuable court time, and increases costs to the judicial system.”

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/25/26)

California Low-Income Consumer Coalition (source)
California Apartment Association

OPPOSITION: (Verified 6/25/26)

None received

ASSEMBLY FLOOR: 76-0, 5/4/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Berman, Boerner, Bonta, Bryan, Calderon, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Arambula, Bennett, Caloza, Chen

Prepared by: Margie Estrada / JUD. / (916) 651-4113
6/26/26 13:19:55

**** END ****