

AMENDED IN SENATE JUNE 8, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1974

Introduced by Assembly Member Gallagher

February 16, 2016

An act to amend Sections 27201 and 27288.1 of the Government Code, relating to the county recorder.

LEGISLATIVE COUNSEL'S DIGEST

AB 1974, as amended, Gallagher. County recorder: recordation of documents.

Existing law requires the county recorder, upon payment of proper fees and taxes, to record any instrument, paper, or notice that is authorized or required to be recorded, provided that the instrument, paper, or notice meets certain standards. Existing law also requires all documents authorized by law to be recorded in the official records of a county to contain specified information.

This bill would require the documents described above that are rerecorded to be executed and acknowledged or verified as new documents, unless otherwise provided, ~~and to contain a notation on the face specifying the reason for the rerecording.~~ *exempted, as specified, presented solely to correct a rerecording sequence, or presented solely to make a minor correction, as defined, with a corrective affidavit. The bill would require the corrective affidavit to satisfy certain requirements, including a requirement that the corrective affidavit be certified under penalty of perjury. The bill would require each rerecorded instrument, paper, or notice to include a cover sheet and to state the reason for rerecording.*

By imposing new duties upon local county officials with respect to the recordation of ~~documents~~, *documents and by expanding the crime of perjury*, this bill would impose a state-mandated local program.

~~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:~~

~~*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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*~~

~~*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*~~

Vote: majority. 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 27201 of the Government Code is
2 amended to read:
3 27201. (a) The recorder shall, upon payment of proper fees
4 and taxes, accept for recordation any instrument, paper, or notice
5 that is authorized or required by statute, or court order to be
6 recorded, or authorized or required to be recorded by a local
7 ordinance that relates to the recordation of any instrument, paper,
8 or notice that relates to real property, if the instrument, paper, or
9 notice contains sufficient information to be indexed as provided
10 by statute, meets recording requirements of state statutes and local
11 ordinances, and is photographically reproducible. The county
12 recorder shall not refuse to record any instrument, paper, or notice
13 that is authorized or required by statute, court order, or local
14 ordinance that relates to the recordation of any instrument, paper,

1 or notice that relates to real property to be recorded on the basis
2 of its lack of legal sufficiency.

3 “Photographically reproducible,” for purposes of this division,
4 means all instruments, papers, or notices that comply with
5 standards as recommended by the American National Standards
6 Institute or the Association for Information and Image Management
7 for recording of records.

8 (b) (1) Each instrument, paper, or notice shall contain an
9 original signature or signatures, except as otherwise provided by
10 law, or be a certified copy of the original.

11 (2) A facsimile signature shall be accepted on a lien recorded
12 by a governmental agency when that facsimile signature has been
13 officially adopted by that agency. The lien shall have noted on its
14 face a statement to that effect. The officially adopted facsimile
15 signature shall be provided to the county recorder by a letter from
16 the agency. A facsimile signature shall continue to be valid until
17 the agency notifies the county recorder that the facsimile signature
18 has been revoked.

19 (c) (1) Each instrument, paper, or notice that is rerecorded
20 shall be executed and acknowledged or verified as a new document,
21 in addition to any previous *execution and* acknowledgment or
22 verification, unless ~~otherwise any of the following apply:~~

23 (A) ~~Otherwise~~ exempted by Section 27287 or any other law, or
24 ~~if being presented law.~~

25 (B) ~~Presented~~ solely to correct a recording sequence. ~~The~~
26 ~~instrument, paper, or notice shall contain a notation on its face~~
27 ~~specifying the reason for the rerecording.~~

28 (C) (i) *Presented solely to make a minor correction with a*
29 *corrective affidavit. The corrective affidavit shall satisfy all of the*
30 *following:*

31 (I) *Be attached to the original recorded instrument, paper, or*
32 *notice.*

33 (II) *Set out the information corrected.*

34 (III) *Be certified by the party submitting the affidavit under*
35 *penalty of perjury.*

36 (IV) *Be acknowledged pursuant to Section 27287.*

37 (ii) *For purposes of this subparagraph, “minor correction”*
38 *includes any of the following:*

39 (I) *An incorrect or missing name of the party requesting*
40 *recording pursuant to Section 27361.6.*

1 (II) *An incorrect or missing name and address of the party to*
2 *which the instrument, paper, or notice is to be returned following*
3 *recording pursuant to Section 27361.6.*

4 (III) *A clarification of illegible text pursuant to Section 27361.7.*

5 (IV) *An incorrect or missing printed or typed name of an*
6 *individual or entity near the signature pursuant to Section 27280.5.*

7 (V) *An incorrect or missing documentary transfer tax amount*
8 *due pursuant to Section 11932 of the Revenue and Taxation Code.*

9 (2) *Each rerecorded instrument, paper, or notice shall include*
10 *a cover sheet that complies with Section 27361.6 and shall state*
11 *the reason for rerecording on the cover sheet.*

12 SEC. 2. Section 27288.1 of the Government Code is amended
13 to read:

14 27288.1. All documents described in this section now or
15 hereafter authorized by law to be recorded in the official records
16 of a county shall contain the following information in addition to
17 any information as may be required by law pertaining to the
18 particular document:

19 (a) If the document effects or evidences a transfer or
20 encumbrance of an interest in real property, the name or names in
21 which the interest appears of record, except that a notice of
22 assessment recorded pursuant to Section 3114 of the Streets and
23 Highways Code, a notice of special tax lien recorded pursuant to
24 Section 3114.5 of the Streets and Highways Code, and a notice of
25 award of contract recorded pursuant to Section 5248 of the Streets
26 and Highways Code, shall show the name or names of the assessed
27 owners as they appear on the latest secured assessment roll.

28 (b) If the document releases or terminates any interest, ~~right~~
29 *right*, or encumbrance, it shall contain or have appended thereto
30 all of the names of those persons and entities owning the title or
31 interest being relieved by the document, or the names of the owners
32 of that title or interest as they appeared at the time and in the
33 document creating the interest, ~~right~~ *right*, or encumbrance.

34 (c) In cases where the county tax collector is filing purchaser's
35 deeds with respect to a sale for defaulted taxes, those documents
36 shall be deemed to constitute compliance with this section.

37 No document subject to this section shall be recorded or indexed
38 in the official records of a county unless it contains the information
39 required by this section as well as any additional information
40 required by law pertaining to the particular document, but the

1 recorder may rely upon the information contained in, or appended
 2 to, the document being offered for record. The failure of any
 3 document to include all of the names required by this section shall
 4 not affect the constructive notice which would otherwise be
 5 afforded by the recording of the document. This section shall not
 6 apply to a vacation or abandonment by a public agency of a public
 7 highway or road.

8 (d) If a document is rerecorded, it shall ~~be executed or~~
 9 ~~acknowledged or verified as a new document, in addition to any~~
 10 ~~previous acknowledgment or verification, unless otherwise~~
 11 ~~exempted by Section 27287 or any other law, or if being presented~~
 12 ~~solely to correct a recording sequence. The document shall contain~~
 13 ~~a notation on its face specifying the reason for the rerecording.~~
 14 *comply with subdivision (c) of Section 27201.*

15 ~~SEC. 3. If the Commission on State Mandates determines that~~
 16 ~~this act contains costs mandated by the state, reimbursement to~~
 17 ~~local agencies and school districts for those costs shall be made~~
 18 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
 19 ~~4 of Title 2 of the Government Code.~~

20 *SEC. 3. No reimbursement is required by this act pursuant to*
 21 *Section 6 of Article XIII B of the California Constitution for certain*
 22 *costs that may be incurred by a local agency or school district*
 23 *because, in that regard, this act creates a new crime or infraction,*
 24 *eliminates a crime or infraction, or changes the penalty for a crime*
 25 *or infraction, within the meaning of Section 17556 of the*
 26 *Government Code, or changes the definition of a crime within the*
 27 *meaning of Section 6 of Article XIII B of the California*
 28 *Constitution.*

29 *However, if the Commission on State Mandates determines that*
 30 *this act contains other costs mandated by the state, reimbursement*
 31 *to local agencies and school districts for those costs shall be made*
 32 *pursuant to Part 7 (commencing with Section 17500) of Division*
 33 *4 of Title 2 of the Government Code.*