

AMENDED IN SENATE AUGUST 19, 2016

AMENDED IN SENATE JUNE 21, 2016

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 exempted, as specified, presented solely to correct a rerecording sequence, *as specified*, 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 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 no reimbursement is required by this act for specified reasons.

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,
15 or notice that relates to real property to be recorded on the basis
16 of its lack of legal sufficiency.

17 “Photographically reproducible,” for purposes of this division,
18 means all instruments, papers, or notices that comply with
19 standards as recommended by the American National Standards
20 Institute or the Association for Information and Image Management
21 for recording of records.

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

1 (2) A facsimile signature shall be accepted on a lien recorded
 2 by a governmental agency when that facsimile signature has been
 3 officially adopted by that agency. The lien shall have noted on its
 4 face a statement to that effect. The officially adopted facsimile
 5 signature shall be provided to the county recorder by a letter from
 6 the agency. A facsimile signature shall continue to be valid until
 7 the agency notifies the county recorder that the facsimile signature
 8 has been revoked.

9 (c) (1) Each instrument, paper, or notice that is rerecorded shall
 10 be executed and acknowledged or verified as a new document, in
 11 addition to any previous execution and acknowledgment or
 12 verification, unless any of the following apply:

13 (A) ~~Otherwise~~ *The instrument, paper, or notice is otherwise*
 14 *exempted by Section 27287 or any other law.*

15 (B) ~~Presented~~ *The instrument, paper, or notice is presented*
 16 *solely to correct a recording sequence. The intent of the parties*
 17 *with regard to the priority of recorded documents shall be*
 18 *controlling regardless of the sequence of recording by a county*
 19 *recorder or the sequence of recording specified in instructions*
 20 *given by a submitter to a county recorder. This subparagraph is*
 21 *declaratory of existing law, and any rerecording of documents to*
 22 *change the sequential numbers assigned to a document by the*
 23 *recorder shall not require the document to be executed and*
 24 *acknowledged or verified as a new document.*

25 (C) (i) ~~Presented~~ *The instrument, paper, or notice is presented*
 26 *solely to make a minor correction with a corrective affidavit. The*
 27 *corrective affidavit shall satisfy all of the following:*

28 (I) Be attached to the original recorded instrument, paper, or
 29 notice.

30 (II) Set out the information corrected.

31 (III) Be certified by the party submitting the affidavit under
 32 penalty of perjury.

33 (IV) Be acknowledged pursuant to Section 27287.

34 (ii) For purposes of this subparagraph, “minor correction”
 35 includes any of the following:

36 ~~(I) An incorrect or missing name of the party requesting~~
 37 ~~recording pursuant to Section 27361.6.~~

38 (H)

1 (I) 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 ~~(II)~~

5 (II) A clarification of illegible text pursuant to Section 27361.7.

6 ~~(IV)~~

7 (III) An incorrect or missing printed or typed name of an
8 individual or entity near the signature pursuant to Section 27280.5.

9 ~~(V)~~

10 (IV) An incorrect or missing documentary transfer tax amount
11 due pursuant to Section 11932 of the Revenue and Taxation Code.

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

15 SEC. 2. Section 27288.1 of the Government Code is amended
16 to read:

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

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

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

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

1 No document subject to this section shall be recorded or indexed
2 in the official records of a county unless it contains the information
3 required by this section as well as any additional information
4 required by law pertaining to the particular document, but the
5 recorder may rely upon the information contained in, or appended
6 to, the document being offered for record. The failure of any
7 document to include all of the names required by this section shall
8 not affect the constructive notice which would otherwise be
9 afforded by the recording of the document. This section shall not
10 apply to a vacation or abandonment by a public agency of a public
11 highway or road.

12 (d) If a document is rerecorded, it shall comply with subdivision
13 (c) of Section 27201.

14 SEC. 3. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 a local agency or school district has the authority to levy service
17 charges, fees, or assessments sufficient to pay for the program or
18 level of service mandated by this act or because costs that may be
19 incurred by a local agency or school district will be incurred
20 because this act creates a new crime or infraction, eliminates a
21 crime or infraction, or changes the penalty for a crime or infraction,
22 within the meaning of Section 17556 of the Government Code, or
23 changes the definition of a crime within the meaning of Section 6
24 of Article XIII B of the California Constitution.