

Assembly Bill No. 1974

Passed the Assembly August 30, 2016

Chief Clerk of the Assembly

Passed the Senate August 23, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1974, 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.

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

SECTION 1. Section 27201 of the Government Code is amended to read:

27201. (a) The recorder shall, upon payment of proper fees and taxes, accept for recordation any instrument, paper, or notice that is authorized or required by statute, or court order to be recorded, or authorized or required to be recorded by a local ordinance that relates to the recordation of any instrument, paper, or notice that relates to real property, if the instrument, paper, or notice contains sufficient information to be indexed as provided by statute, meets recording requirements of state statutes and local ordinances, and is photographically reproducible. The county recorder shall not refuse to record any instrument, paper, or notice that is authorized or required by statute, court order, or local ordinance that relates to the recordation of any instrument, paper, or notice that relates to real property to be recorded on the basis of its lack of legal sufficiency.

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

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

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signature shall continue to be valid until the agency notifies the county recorder that the facsimile signature has been revoked.

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

(A) The instrument, paper, or notice is otherwise exempted by Section 27287 or any other law.

(B) The instrument, paper, or notice is presented solely to correct a recording sequence. The intent of the parties with regard to the priority of recorded documents shall be controlling regardless of the sequence of recording by a county recorder or the sequence of

recording specified in instructions given by a submitter to a county recorder. This subparagraph is declaratory of existing law, and any rerecording of documents to change the sequential numbers assigned to a document by the recorder shall not require the document to be executed and acknowledged or verified as a new document.

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

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

(II) Set out the information corrected.

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

(IV) Be acknowledged pursuant to Section 27287.

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

(I) An incorrect or missing address of the party to which the instrument, paper, or notice is to be returned following recording pursuant to Section 27361.6.

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

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

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

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

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

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

(a) If the document effects or evidences a transfer or encumbrance of an interest in real property, the name or names in which the interest appears of record, except that a notice of assessment recorded pursuant to Section 3114 of the Streets and Highways Code, a notice of special tax lien recorded pursuant to

Section 3114.5 of the Streets and Highways Code, and a notice of award of contract recorded pursuant to Section 5248 of the Streets and Highways Code, shall show the name or names of the assessed owners as they appear on the latest secured assessment roll.

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

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

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

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

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

Approved _____, 2016

Governor