

AMENDED IN SENATE MAY 16, 1995

SENATE BILL

No. 537

Introduced by Senator Hughes

February 21, 1995

An act to add Section 27388 to the Government Code, relating to recordation fees, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 537, as amended, Hughes. Recordation fees.

Existing law requires the county recorder, upon payment of proper fees and taxes, to accept for recordation any instrument, paper, or notice that is authorized or required by law to be recorded.

This bill would provide that in addition to other recording fees, upon the adoption of a resolution by the county board of supervisors, a fee of \$1 shall be paid at the time of recording of every instrument, paper, or notice, as specified. The bill would require *that the fees collected to be paid to the Controller, and would specify that the fees are continuously appropriated to be placed in the real estate fraud prosecution trust fund to be distributed by the county auditor or director of finance, as determined by a real estate fraud prosecution fund committee, to* district attorneys and local law enforcement agencies for the purpose of determining, investigating, and prosecuting real estate fraud crimes.

Vote: $\frac{2}{3}$ majority. Appropriation: ~~yes~~ no. Fiscal committee: ~~yes~~ no. State-mandated local program: no.

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

SECTION 1. Section 27388 is added to the Government Code, to read:

27388. (a) In addition to any other recording fees specified in this code, upon the adoption of a resolution by the county board of supervisors, a fee of one dollar (\$1) shall be paid at the time of recording of every instrument, paper, or notice required or permitted by law to be recorded within that county, except those expressly exempted from payment of recording fees. The fees, after deduction of any incidental administrative costs incurred by the county in carrying out this section, shall be paid quarterly to the ~~Controller~~ *county auditor or director of finance, to be placed in a real estate fraud prosecution trust fund.*

~~(b) Notwithstanding Section 13340 of the Government Code, the money paid to the Controller is continuously appropriated, without regard to fiscal years, for the administrative costs of the Controller, and for disbursement by the Controller to each county which has adopted a resolution pursuant to subdivision (a), based upon the number of documents recorded for an address within that county.~~

~~(c) Money allocated to a county shall be expended to~~

(b) Money placed in the real estate fraud prosecution trust fund shall be expended to fund programs to enhance the capacity of local police and prosecutors to deter, investigate, and prosecute real estate fraud crimes. After incidental expenses, 60 percent of those funds shall be distributed to district attorneys and 40 percent of those funds to local law enforcement agencies, and 40 percent of those funds shall be distributed to local law enforcement agencies within the county in accordance with subdivision (c). In those counties where the investigation of real estate fraud is done exclusively by the district attorney, after incidental expenses, 100 percent of those funds shall be distributed to the district attorney.
The funds distributed shall be expended for the exclusive

purpose of deterring, investigating, and prosecuting real estate fraud crimes.

~~(d) Any funds received by a county pursuant to this section that are not expended to deter, investigate, or prosecute real estate crimes within the following fiscal year shall be returned to the Controller, to be disbursed to counties that have adopted resolutions pursuant to this section or to the Department of Real Estate for the exclusive purpose of deterring, investigating, or prosecuting real estate fraud crimes. A district attorney's~~

(c) The county auditor or director of finance shall distribute funds in the real estate fraud prosecution trust fund to eligible law enforcement agencies within the county pursuant to subdivision (b), as determined by a real estate fraud prosecution trust fund committee composed of the district attorney, the county auditor or director of finance, and the chief officer responsible for consumer protection within the county, each of whom may appoint representatives of their offices to serve on the committee. The committee shall establish deadlines and procedures for local law enforcement agencies within the county to apply for the use of funds and shall review applications and make determinations as to the award of funds using the following criteria:

(1) Each law enforcement agency that seeks funds shall submit an application to the committee setting forth in detail the agency's proposed use of the funds.

(2) Each law enforcement agency that submits an application for funds to the committee shall have a unit, division, or section devoted solely to the investigation of real estate fraud, that has been in existence for one year prior to the application date.

(3) The committee's determination to award funds to a law enforcement agency shall be based on, but not be limited to, (A) the number of real estate fraud cases filed in the prior year; (B) the number of real estate fraud cases investigated in the prior year; (C) the number of victims involved in the cases filed; and (D) the total aggregated monetary loss suffered by victims, including

1 *individuals, associations, institutions, or corporations, as a*
2 *result of the real estate fraud cases filed.*

3 *(4) Each law enforcement agency that, pursuant to*
4 *this section, has been awarded funds in the previous year,*
5 *upon reapplication for funds to the committee in each*
6 *successive year, in addition to any information the*
7 *committee may require in paragraph (3), shall be*
8 *required to submit a detailed accounting of funds*
9 *received and expended in the prior year. The accounting*
10 *shall include (A) the amount of funds received and*
11 *expended; (B) the uses to which those funds were put,*
12 *including payment of salaries and expenses, purchase of*
13 *equipment and supplies, and other expenditures by type;*
14 *(C) the number of filed complaints, investigations,*
15 *arrests, and convictions that resulted from the*
16 *expenditure of the funds; and (D) other relevant*
17 *information the committee may reasonably require.*

18 *(d) A district attorney's office or a local law*
19 *enforcement agency that has undertaken investigations*
20 *and prosecutions which will continue into a subsequent*
21 *program year may receive nonexpended funds not*
22 ~~*exceeding 25 percent to the total annual funding*~~ *from the*
23 *previous fiscal year.*

24 *(e) No money collected pursuant to this section shall*
25 *be expended to offset a reduction in any other source of*
26 *funds.*