

AMENDED IN ASSEMBLY JUNE 26, 1995

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.

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 *real estate* instrument, paper, or notice, as specified. The bill would require that the fees collected be placed in the ~~real estate fraud prosecution trust fund~~ *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~~ *Real Estate Fraud Prosecution Trust Fund Committee*, to district attorneys and local law enforcement agencies for the purpose of determining, investigating, and prosecuting real estate fraud crimes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 27388 is added to the
2 Government Code, to read:
3 27388. (a) In addition to any other recording fees
4 specified in this code, upon the adoption of a resolution
5 by the county board of supervisors, a fee of one dollar (\$1)
6 shall be paid at the time of recording of every *real estate*
7 instrument, paper, or notice required or permitted by
8 law to be recorded within that county *for the legal*
9 *transfer of title*, except those expressly exempted from
10 payment of recording fees. *“Real estate instrument” is*
11 *defined for the purpose of this section as a written paper*
12 *signed by a person or persons transferring the title to, or*
13 *giving a lien on, real property, or giving a right to a debt*
14 *or duty.* The fees, after deduction of any incidental
15 administrative costs incurred by the county in carrying
16 out this section, shall be paid quarterly to the county
17 auditor or director of finance, to be placed in a ~~real estate~~
18 ~~fraud prosecution trust fund~~ *Real Estate Fraud*
19 *Prosecution Trust Fund.*
20 (b) Money placed in the ~~real estate fraud prosecution~~
21 ~~trust fund~~ *Real Estate Fraud Prosecution Trust Fund* shall
22 be expended to fund programs to enhance the capacity
23 of local police and prosecutors to deter, investigate, and
24 prosecute real estate fraud crimes. After ~~incidental~~
25 ~~expenses~~ *deduction of the incidental administrative costs*
26 *referred to in subdivision (a)*, 60 percent of ~~those the~~
27 funds shall be distributed to district attorneys, and 40
28 percent of ~~those the~~ funds shall be distributed to local law
29 enforcement agencies within the county in accordance
30 with subdivision (c). In those counties where the
31 investigation of real estate fraud is done exclusively by the
32 district attorney, after ~~incidental expenses~~ *deduction of*
33 *the incidental administrative costs referred to in*
34 *subdivision (a)*, 100 percent of ~~those the~~ funds shall be
35 distributed to the district attorney. The funds so



1 distributed shall be expended for the exclusive purpose
2 of deterring, investigating, and prosecuting real estate
3 fraud crimes.

4 (c) The county auditor or director of finance shall
5 distribute funds in the ~~real estate fraud prosecution trust~~
6 ~~fund~~ *Real Estate Fraud Prosecution Trust Fund* to
7 eligible law enforcement agencies within the county
8 pursuant to subdivision (b), as determined by a ~~real~~
9 ~~estate fraud prosecution trust fund committee~~ *Real*
10 *Estate Fraud Prosecution Trust Fund Committee*
11 composed of the district attorney, the county auditor or
12 director of finance, and the chief officer responsible for
13 consumer protection within the county, each of whom
14 may appoint representatives of their offices to serve on
15 the committee. *If a county lacks a chief officer responsible*
16 *for consumer protection, the county board of supervisors*
17 *may appoint an appropriate representative to serve on*
18 *the committee.* The committee shall establish ~~deadlines~~
19 ~~and~~ *and publish deadlines and written* procedures for
20 local law enforcement agencies within the county to
21 apply for the use of funds and shall review applications
22 and make determinations as to the award of funds using
23 the following criteria:

24 (1) Each law enforcement agency that seeks funds
25 shall submit ~~an~~ *a written* application to the committee
26 setting forth in detail the agency's proposed use of the
27 funds.

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

33 (2) *In order to qualify for receipt of funds, each law*
34 *enforcement agency submitting an application shall*
35 *provide written evidence that the agency either:*

36 (A) *Has a unit, division, or section devoted to the*
37 *investigation or prosecution of real estate fraud, or both,*
38 *and the unit, division, or section has been in existence for*
39 *at least one year prior to the application date.*



1 (B) Has on a regular basis, during the three years
2 immediately preceding the application date accepted for
3 investigation or prosecution, or both, and assigned to
4 specific persons employed by the agency, cases of
5 suspected real estate fraud, and actively investigated and
6 prosecuted those cases.

7 (3) The committee's determination to award funds to
8 a law enforcement agency shall be based on, but not be
9 limited to, (A) the number of real estate fraud cases filed
10 in the prior year; (B) the number of real estate fraud
11 cases investigated in the prior year; (C) the number of
12 victims involved in the cases filed; and (D) the total
13 aggregated monetary loss suffered by victims, including
14 individuals, associations, institutions, or corporations, as a
15 result of the real estate fraud cases filed, *and those under*
16 *active investigation by that law enforcement agency.*

17 (4) Each law enforcement agency that, pursuant to
18 this section, has been awarded funds in the previous year,
19 upon reapplication for funds to the committee in each
20 successive year, in addition to any information the
21 committee may require in paragraph (3), shall be
22 required to submit a detailed accounting of funds
23 received and expended in the prior year. The accounting
24 shall include (A) the amount of funds received and
25 expended; (B) the uses to which those funds were put,
26 including payment of salaries and expenses, purchase of
27 equipment and supplies, and other expenditures by type;
28 (C) the number of filed complaints, investigations,
29 arrests, and convictions that resulted from the
30 expenditure of the funds; and (D) other relevant
31 information the committee may reasonably require.

32 (d) A district attorney's office or a local law
33 enforcement agency that has undertaken investigations
34 and prosecutions which will continue into a subsequent
35 program year may receive nonexpended funds from the
36 previous fiscal year.



1 (e) No money collected pursuant to this section shall
2 be expended to offset a reduction in any other source of
3 funds.

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