

AMENDED IN ASSEMBLY JULY 19, 1995

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 *up to* \$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 to be distributed by the county ~~auditor or director of finance~~ *chief administrative officer*, as determined by a 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, *as specified*.

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

1 attorney, *subject to review pursuant to subdivision (d)*.
2 The funds so distributed shall be expended for the
3 exclusive purpose of deterring, investigating, and
4 prosecuting real estate fraud crimes.

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

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

28 (2) In order to qualify for receipt of funds, each law
29 enforcement agency submitting an application shall
30 provide written evidence that the agency either:

31 (A) Has a unit, division, or section devoted to the
32 investigation or prosecution of real estate fraud, or both,
33 and the unit, division, or section has been in existence for
34 at least one year prior to the application date.

35 (B) Has on a regular basis, during the three years
36 immediately preceding the application date, accepted
37 for investigation or prosecution, or both, and assigned to
38 specific persons employed by the agency, cases of
39 suspected real estate fraud, and actively investigated and
40 prosecuted those cases.

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

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

26 ~~(d) A district attorney's office or a local law~~
27 ~~enforcement agency that has undertaken investigations~~
28 ~~and prosecutions which will continue into a subsequent~~
29 ~~program year may receive nonexpended funds from the~~
30 ~~previous fiscal year.~~

31 ~~(e) No money collected pursuant to this section shall~~
32 ~~be expended to offset a reduction in any other source of~~
33 ~~funds.~~

34 *(d) The county board of supervisors shall annually*
35 *review the effectiveness of the district attorney in*
36 *detering, investigating, and prosecuting real estate*
37 *fraud crimes based upon information provided by the*
38 *district attorney in an annual report submitted to the*
39 *board detailing both:*

1 (1) Facts, based upon, but not limited to, (A) the
2 number of real estate fraud cases filed in the prior year;
3 (B) the number of real estate fraud cases investigated in
4 the prior year; (C) the number of victims involved in the
5 cases filed; (D) the number of convictions obtained in the
6 prior year; and (E) the total aggregated monetary loss
7 suffered by victims, including individuals, associations,
8 institutions, corporations, and other relevant public
9 entities, according to the number of cases filed,
10 investigations, prosecutions, and convictions obtained.

11 (2) An accounting of funds received and expended in
12 the prior year, which shall include (A) the amount of
13 funds received and expended; (B) the uses to which those
14 funds were put, including payment of salaries and
15 expenses, purchase of equipment and supplies, and other
16 expenditures by type; (C) the number of filed
17 complaints, investigations, prosecutions, and convictions
18 that resulted from the expenditure of funds; and (D)
19 other relevant information provided at the discretion of
20 the district attorney.

21 (e) The intent of the Legislature in enacting this
22 section is to have an impact on real estate fraud involving
23 the largest number of victims. To the extent possible, an
24 emphasis should be placed on fraud against individuals
25 whose residences are in danger of, or are in, foreclosure
26 as defined under subdivision (b) of Section 1695.1 of the
27 Civil Code. Case filing decisions continue to be in the
28 discretion of the prosecutor.

29 (f) A district attorney's office or a local enforcement
30 agency that has undertaken investigations and
31 prosecutions that will continue into a subsequent
32 program year may receive nonexpended funds from the
33 previous fiscal year subsequent to the annual submission
34 of information detailing the accounting of funds received
35 and expended in the prior year.

36 (g) No money collected pursuant to this section shall
37 be expended to offset a reduction in any other source of
38 funds. Funds from the Real Estate Fraud Prosecution
39 Trust Fund shall be used only in connection with criminal

1 *investigations or prosecutions involving recorded real*
2 *estate documents.*

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