

AMENDED IN ASSEMBLY SEPTEMBER 8, 1995

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~~ \$2 shall be paid at the time of recording of every real estate instrument, ~~paper, or notice,~~ as ~~specified~~ *defined*. The bill would require that the fees collected be placed in the Real Estate Fraud Prosecution Trust Fund to be distributed by the county 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)~~ *two dollars (\$2)* shall be paid at the time of
7 recording of every real estate instrument, paper, or
8 notice required or permitted by law to be recorded
9 within that county ~~for the legal transfer of title~~, except
10 those expressly exempted from payment of recording
11 fees. “Real estate instrument” is defined for the purpose
12 of this section as ~~a written paper signed by a person or~~
13 ~~persons transferring the title to, or giving a lien on, real~~
14 ~~property, or giving a right to a debt or duty~~ *a deed of trust,*
15 *an assignment of deed of trust, a reconveyance, a request*
16 *for notice, and a notice of default. “Real estate*
17 *instrument” does not include any deed, instrument, or*
18 *writing subject to the imposition of a documentary*
19 *transfer tax as defined in Section 11911 of the Revenue*
20 *and Taxation Code, nor any document required to*
21 *facilitate the transfer subject to the documentary transfer*
22 *tax. The fees, after deduction of any actual and necessary*
23 *administrative costs incurred by the county in carrying*
24 *out this section, shall be paid quarterly to the county*
25 *auditor or director of finance, to be placed in the Real*
26 *Estate Fraud Prosecution Trust Fund.*

27 (b) Money placed in the Real Estate Fraud
28 Prosecution Trust Fund shall be expended to fund
29 programs to enhance the capacity of local police and
30 prosecutors to deter, investigate, and prosecute real
31 estate fraud crimes. After deduction of the actual and
32 necessary administrative costs referred to in subdivision
33 (a), 60 percent of the funds shall be distributed to district



1 attorneys subject to review pursuant to subdivision (d),
2 and 40 percent of the funds shall be distributed to local
3 law enforcement agencies within the county in
4 accordance with subdivision (c). In those counties where
5 the investigation of real estate fraud is done exclusively
6 by the district attorney, after deduction of the actual and
7 necessary administrative costs referred to in subdivision
8 (a), 100 percent of the funds shall be distributed to the
9 district attorney, subject to review pursuant to
10 subdivision (d). The funds so distributed shall be
11 expended for the exclusive purpose of deterring,
12 investigating, and prosecuting real estate fraud crimes.

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

31 (1) Each law enforcement agency that seeks funds
32 shall submit a written application to the committee
33 setting forth in detail the agency's proposed use of the
34 funds.

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

38 (A) Has a unit, division, or section devoted to the
39 investigation or prosecution of real estate fraud, or both,



1 and the unit, division, or section has been in existence for
2 at least one year prior to the application date.

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

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

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

34 (d) The county board of supervisors shall annually
35 review the effectiveness of the district attorney in
36 deterring, 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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