

AMENDED IN ASSEMBLY APRIL 22, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1390**

---

---

**Introduced by Assembly Member House**  
*(Coauthors: Assembly Members Cardoza, Richter,*  
*Thomson, and Wayne)*  
*(Coauthor: Senator Monteith)*

February 28, 1997

---

---

An act to amend Section 27203.5 of, and to add Sections 27204 and 27204.5 to, the Government Code, relating to county recorders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1390, as amended, House. County recorders.

Existing law prescribes the duties of the county recorder. Existing law provides, among other things, that if the recorder willfully and maliciously commits any of specified acts, including neglecting or refusing to record a document within a reasonable time of receipt, he or she is liable to the aggrieved party for 3 times the amount of damages occasioned by that act.

This bill would delete the treble damages penalty for willfully and maliciously neglecting or refusing to record a document within a reasonable time.

This bill would make it a misdemeanor for any person to continue ~~or~~ to repeatedly attempt to record a document after the recorder has judged the document unrecordable, as

specified. By creating a new crime this bill would impose a state-mandated local program.

This bill would also authorize the recorder to provide a form stating that a person presenting a document the recorder judges unrecordable has the right to judicial review of the refusal to record the document. The bill would provide that if the court determines the document is recordable the recorder shall pay the filing fees for the review.

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 a specified reason.

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

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

1 SECTION 1. Section 27203.5 of the Government  
2 Code is amended to read:

3 27203.5. If the recorder willfully and maliciously  
4 commits any of the acts described in subdivisions (b), (c),  
5 and (d) of Section 27203 or if he or she derives a personal  
6 financial benefit from committing any of those acts, he or  
7 she is liable to the party aggrieved for three times the  
8 amount of damages occasioned thereby.

9 SEC. 2. Section 27204 is added to the Government  
10 Code, to read:

11 27204. Any person who continues ~~to~~ attempt to  
12 repeatedly attempt to record a document judged to be  
13 unrecordable by the recorder after the judgment has  
14 been communicated to the presenter of the document is  
15 guilty of harassment which is punishable as a  
16 misdemeanor.

17 SEC. 3. Section 27204.5 is added to the Government  
18 Code, to read:

19 27204.5. The recorder may provide, to any person  
20 presenting a document the recorder judges to be  
21 unrecordable, a form stating that the person has the right



1 to judicial review in ~~the superior court~~ a court of  
 2 competent jurisdiction of the recorders refusal to record  
 3 the document. *The form may include a section stating the*  
 4 *recorder's reason for refusing the document. The*  
 5 *recorder may keep a correct copy of the refused*  
 6 *document.* In the event the document is determined by  
 7 the court to be recordable the recorder shall pay the filing  
 8 fees for the review.

9 SEC. 4. No reimbursement is required by this act  
 10 pursuant to Section 6 of Article XIII B of the California  
 11 Constitution because the only costs that may be incurred  
 12 by a local agency or school district will be incurred  
 13 because this act creates a new crime or infraction,  
 14 eliminates a crime or infraction, or changes the penalty  
 15 for a crime or infraction, within the meaning of Section  
 16 17556 of the Government Code, or changes the definition  
 17 of a crime within the meaning of Section 6 of Article  
 18 XIII B of the California Constitution.

19 Notwithstanding Section 17580 of the Government  
 20 Code, unless otherwise specified, the provisions of this act  
 21 shall become operative on the same date that the act  
 22 takes effect pursuant to the California Constitution.

23 \_\_\_\_\_  
 24 CORRECTIONS

25  
 26 **Text — Page 3.**

27 \_\_\_\_\_  
 28

