

AMENDED IN ASSEMBLY MAY 11, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2935**

**Introduced by Committee on Information Technology  
(Dutra (Chair), Alquist, and Ducheny)**

March 23, 2000

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An act to amend Section 2952 of the Civil Code, to amend Sections 26205, 26205.1, 27001, 27002.1, and 27201 of, and to add Chapter 13 (commencing with Section 30700) to Division 3 of Title 3 of, the Government Code, relating to government records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2935, as amended, Committee on Information Technology. Government records.

(1) Existing law provides that whenever a mortgage or deed of trust presented for recordation contains a reference to provisions in a fictitious mortgage or deed preceded by a statement to the effect that it is not to be recorded, the county recorder shall record only the mortgage or deed of trust portion of the document and shall not be liable for failure to record the portion with instructions not to record.

This bill would delete that provision.

(2) Existing law authorizes county officers to comply with requirements to record and preserve documents and records by various methods before destroying original documents.

This bill would define information technology and related terms and would authorize the recording and preservation of

documents by those county officers by the application of other information technology.

(3) Existing law requires documents required to be recorded by the county recorder to contain an original signature or signatures.

This bill would authorize facsimile signatures to be accepted on liens recorded by a government agency 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 2952 of the Civil Code is  
 2 amended to read:  
 3 2952. Mortgages and deeds of trust of real property  
 4 may be acknowledged or proved, certified and recorded,  
 5 in like manner and with like effect, as grants thereof;  
 6 provided, however, that a mortgage or deed of trust of  
 7 real property may be recorded and constructive notice of  
 8 the same and the contents thereof given in the following  
 9 manner:  
 10 Any person may record in the office of the county  
 11 recorder of any county fictitious mortgages and deeds of  
 12 trust of real property. Those fictitious mortgages and  
 13 deeds of trust need not be acknowledged, or proved or  
 14 certified to be recorded or entitled to record. Those  
 15 mortgages and deeds of trust shall have noted upon the  
 16 face thereof that they are fictitious. The county recorder  
 17 shall index and record fictitious mortgages and deeds of  
 18 trust in the same manner as other mortgages and deeds  
 19 of trust are recorded, and shall note on all indices and  
 20 records of the same that they are fictitious. Thereafter,  
 21 any of the provisions of any recorded fictitious mortgage  
 22 or deed of trust may be included for any and all purposes  
 23 in any mortgage or deed of trust by reference therein to  
 24 any of those provisions, without setting the same forth in  
 25 full; provided, the fictitious mortgage or deed of trust is  
 26 of record in the county in which the mortgage or deed of  
 27 trust adopting or including by reference any of the



1 provisions thereof is recorded. The reference shall  
2 contain a statement, as to each county in which the  
3 mortgage or deed of trust containing such a reference is  
4 recorded, of the date the fictitious mortgage or deed of  
5 trust was recorded, the county recorder's office wherein  
6 it is recorded, and the book or volume and the first page  
7 of the records in the recorder's office wherein and at  
8 which the fictitious mortgage or deed of trust was  
9 recorded, and a statement by paragraph numbers or any  
10 other method that will definitely identify the same, of the  
11 specific provisions of the fictitious mortgage or deed of  
12 trust that are being so adopted and included therein. The  
13 recording of any mortgage or deed of trust which has  
14 included therein any of those provisions by reference as  
15 aforesaid shall operate as constructive notice of the whole  
16 thereof including the terms, as a part of the written  
17 contents of the mortgage or deed of trust, of those  
18 provisions so included by reference as though the same  
19 were written in full therein. The parties bound or to be  
20 bound by provisions so adopted and included by  
21 reference shall be bound thereby in the same manner and  
22 with like effect for all purposes as though those provisions  
23 had been and were set forth in full in any mortgage or  
24 deed of trust.

25 The amendment to this section enacted by the 1957  
26 Regular Session of the Legislature does not constitute a  
27 change in, but is declaratory of, the preexisting law.

28 SEC. 2. Section 26205 of the Government Code is  
29 amended to read:

30 26205. At the request of the county officer concerned,  
31 the board of supervisors of any county may authorize the  
32 destruction of any record, paper, or document that is not  
33 expressly required by law to be filed and preserved if all  
34 of the following conditions are complied with:

35 (a) The record, paper, or document is photographed,  
36 microphotographed, reproduced by electronically  
37 recorded video images on magnetic surfaces, recorded in  
38 the electronic data-processing system, recorded on  
39 optical disk, or reproduced on film or any other medium  
40 that is a trusted system and that does not permit additions,



1 deletions, or changes to the original document and is  
2 produced in compliance with the regulations adopted by  
3 the Secretary of State, as specified in Section 12168.7 for  
4 recording of permanent records or nonpermanent  
5 records.

6 (b) The device used to reproduce the record, paper,  
7 or document on film, optical disk, or any other medium  
8 is one that accurately reproduces the original thereof in  
9 all details and ~~which~~ *that* does not permit additions,  
10 deletions, or changes to the original document images.

11 (c) The photographs, microphotographs,  
12 electronically recorded video images on magnetic  
13 surfaces, records in the electronic data-processing  
14 system, records recorded on optical disk, or other  
15 reproductions on film or any other medium, including  
16 information technology pursuant to Section 30701, are  
17 placed in conveniently accessible files and provision is  
18 made for preserving, examining, and using the files.

19 Notwithstanding any other provision of this section,  
20 destruction of the original records, papers, or documents  
21 is not authorized when the method of reproduction  
22 pursuant to this section is reproduction of electronically  
23 recorded video images on magnetic surfaces unless a  
24 duplicate videotape of the images is separately  
25 maintained. A duplicate copy of a record contained in the  
26 electronic data-processing system, on optical disk, or on  
27 any other medium that does not permit additions,  
28 deletions, or changes to the original document images  
29 shall also be separately maintained.

30 SEC. 3. Section 26205.1 of the Government Code is  
31 amended to read:

32 26205.1. (a) The county officer having custody of  
33 nonjudicial public records, documents, instruments,  
34 books, and papers may cause to be destroyed any or all of  
35 the records, documents, instruments, books, and papers  
36 if all of the following conditions exist:

37 (1) The board of supervisors of the county has adopted  
38 a resolution authorizing the county officer to destroy  
39 records, documents, instruments, books, and papers  
40 pursuant to this subdivision. The resolution may impose



1 conditions, in addition to those specified in this  
2 subdivision, that the board of supervisors determines are  
3 appropriate.

4 (2) The county officer who destroys any record,  
5 document, instrument, book, or paper pursuant to the  
6 authority granted by this subdivision and a resolution of  
7 the board of supervisors adopted pursuant to paragraph  
8 (1) shall maintain for the use of the public a photographic  
9 or microphotographic film, electronically recorded video  
10 production, a record contained in the electronic  
11 data-processing system, a record recorded on optical disk,  
12 a record recorded by any other medium that does not  
13 permit additions, deletions, or changes to the original  
14 document, or other duplicate of the record, document,  
15 instrument, book, or paper destroyed.

16 (3) The record, paper or document is photographed,  
17 microphotographed, reproduced by electronically  
18 recorded video images on magnetic surfaces, recorded in  
19 the electronic data-processing system, recorded on  
20 optical disk or reproduced on film or any other medium,  
21 or information technology pursuant to Section 30701, that  
22 is a trusted system and that does not permit additions,  
23 deletions, or changes to the original document and is  
24 produced in compliance with the regulations adopted by  
25 the Secretary of State, as specified in Section 12168.7 for  
26 recording of permanent records or nonpermanent  
27 records.

28 (b) Paragraphs (2) and (3) of subdivision (a) do not  
29 apply to records prepared or received other than  
30 pursuant to a state statute or county charter, or records  
31 that are not expressly required by law to be filed and  
32 preserved.

33 For the purposes of this section, every reproduction  
34 shall be deemed to be an original record and a transcript,  
35 exemplification, or certified copy of any reproduction  
36 shall be deemed to be a transcript, exemplification, or  
37 certified copy, as the case may be, of the original.

38 (c) The county clerk having custody of the original or  
39 a copy of the articles of any corporation may cause the  
40 destruction of any or all the documents. "Articles"



1 includes the articles of incorporation, amendments  
2 thereto, amended articles, restated articles, certificate of  
3 incorporation, certificates of determination of  
4 preferences, dissolution certificates, merger certificates,  
5 and agreements of consolidation or merger.

6 (d) Notwithstanding any other provision of this  
7 section, destruction of the original records, papers, or  
8 documents is not authorized when the method of  
9 reproduction pursuant to this section is reproduction of  
10 electronically recorded video images on magnetic  
11 surfaces unless a duplicate videotape of the images is  
12 separately maintained. A duplicate copy of a record  
13 contained in the electronic data-processing system, on  
14 optical disk, or on any other medium that does not permit  
15 additions, deletions, or changes to the original document  
16 shall also be separately maintained.

17 SEC. 4. Section 27001 of the Government Code is  
18 amended to read:

19 27001. The treasurer shall file and keep the  
20 certificates of the auditor delivered to him or her when  
21 money is paid into the treasury. Notwithstanding Sections  
22 26201, 26202, and 26205, the treasurer may destroy any  
23 certificate pursuant to this section under either of the  
24 following circumstances:

25 (a) The certificate has been filed for more than five  
26 years.

27 (b) The certificate has been filed for more than one  
28 year, and all of the following conditions are complied  
29 with:

30 (1) The record, paper, or document is photographed,  
31 microphotographed, or reproduced on film of a type  
32 approved for permanent photographic records by the  
33 National Bureau of Standards.

34 (2) The device used to reproduce the record, paper, or  
35 document on film is one that accurately reproduces the  
36 original thereof in all details.

37 (3) The photographs, microphotographs, or other  
38 reproductions on film are placed in conveniently  
39 accessible files and provision is made for preserving,  
40 examining, and using the same.



1 (4) Other information technology that is used in  
2 accordance with Section 30701.

3 SEC. 5. Section 27002.1 of the Government Code is  
4 amended to read:

5 27002.1. (a) The treasurer may, in lieu of entering in  
6 books an account of the receipt and expenditure of all  
7 money received or paid out by him or her as provided in  
8 Section 27002, photograph, microphotograph, photocopy,  
9 or enter into an electronic data processing system that  
10 utilizes optical transmission and filing, all receipts for  
11 money received by him or her and all warrants paid out  
12 by him or her.

13 (b) Every reproduction described in subdivision (a)  
14 shall be deemed and considered an original, and a  
15 transcript, exemplification, or certified copy of any of  
16 those reproductions shall be deemed and considered a  
17 transcript, exemplification, or certified copy, as the case  
18 may be, of the original.

19 (c) All reproductions described in subdivision (a) shall  
20 be properly indexed and placed in convenient, accessible  
21 files. Each roll of microfilm shall be deemed and  
22 constitute a book, and shall be designated and numbered,  
23 and provision shall be made for preserving, examining,  
24 and using it.

25 A duplicate of each roll of microfilm shall be made and  
26 kept in a safe and separate place.

27 (d) The treasurer may also utilize other information  
28 technology in accordance with Section 30701.

29 SEC. 6. Section 27201 of the Government Code is  
30 amended to read:

31 27201. (a) The recorder shall, upon payment of  
32 proper fees and taxes, accept for recordation any  
33 instrument, paper, or notice ~~which~~ *that* is authorized or  
34 required by statute or court order to be recorded, if the  
35 instrument, paper, or notice contains sufficient  
36 information to be indexed as provided by statute, meets  
37 recording requirements of state statutes and local  
38 ordinances, and is photographically reproducible. The  
39 county recorder shall not refuse to record any  
40 instrument, paper, or notice ~~which~~ *that* is authorized or



1 required by statute or court order to be recorded on the  
 2 basis of its lack of legal sufficiency.

3 “Photographically reproducible,” for purposes of this  
 4 division, means all instruments, papers, or notices ~~which~~  
 5 *that* comply with standards as recommended by the  
 6 American National Standards Institute or the Association  
 7 for Information and Image Management for recording of  
 8 records.

9 (b) Each instrument, paper, or notice shall contain an  
 10 original signature or signatures, except as otherwise  
 11 provided by law, or be a certified copy of the original. A  
 12 facsimile signature shall be accepted on a lien recorded  
 13 by a governmental agency when that facsimile signature  
 14 has been officially adopted by that agency. The lien shall  
 15 have noted on its face a statement to that effect.

16 SEC. 7. Chapter 13 (commencing with Section 30700)  
 17 is added to Division 3 of Title 3 of the Government Code,  
 18 to read:

19  
 20  
 21

CHAPTER 13. INFORMATION TECHNOLOGY

22 30700. The Legislature finds that information  
 23 technology is an indispensable tool of modern  
 24 government for the rapid and efficient handling of data,  
 25 records, communication, and transactions, and for  
 26 assisting decision makers in carrying out their tasks and  
 27 responsibilities at all levels of government.

28 ~~30701. In matters relating to information technology~~  
 29 ~~as defined in Section 30702 and to include the~~  
 30 ~~preparation, use, processing, transmittal, and storage of~~  
 31 ~~signatures, data, documents, reports, and accounting,~~  
 32 ~~accepted information technology and business practices~~  
 33 ~~may be applied. Information technology shall conform~~  
 34 ~~and comply with appropriate industry standards without~~  
 35 ~~jeopardizing the security or confidentiality of~~  
 36 ~~information as provided by statute or of individual rights~~  
 37 ~~to privacy provided by the California and United States~~  
 38 ~~Constitutions.~~

39 30702. The following definitions apply for the  
 40 purposes of this chapter:



1 ~~(a) “Appropriate industry standards” includes, but is~~  
 2 ~~not limited to, those standards promulgated by~~  
 3 ~~organizations such as the American National Standards~~  
 4 ~~Institute (ANSI), Association for Information and Image~~  
 5 ~~Management International (AIIM), International~~  
 6 ~~Standards Organization (ISO), United States National~~  
 7 ~~Standards Committee (USNC), and International~~  
 8 ~~Electrotechnical Commission (IEC). Those~~  
 9 ~~organizations support goals of United States and global~~  
 10 ~~standardization.~~

11 ~~(b) “Information technology” includes, but is not~~  
 12 ~~30701. (a) A method of information technology used~~  
 13 ~~for receiving, storing, and retaining information shall~~  
 14 ~~meet either of the following:~~

15 ~~(1) The standards established by the American~~  
 16 ~~National Standards Institute (ANSI), the Association for~~  
 17 ~~Information and Image Management (AIIM), the~~  
 18 ~~International Standards Organization (ISO), the United~~  
 19 ~~States National Standards Committee (USNSC), or the~~  
 20 ~~International Electrotechnical Commission (IEC).~~

21 ~~(2) The standards referenced in paragraph (1) as~~  
 22 ~~modified by statute or regulation.~~

23 ~~(b) No method of information technology may be used~~  
 24 ~~pursuant to subdivision (a) if the method would infringe~~  
 25 ~~on any right of privacy under the United States or~~  
 26 ~~California Constitution, any federal law, or any law of this~~  
 27 ~~state.~~

28 ~~30702. For purposes of this chapter, “information~~  
 29 ~~technology” means a method of information processing~~  
 30 ~~or handling that includes, but is not limited to, all~~  
 31 ~~electronic technology systems and services, automated~~  
 32 ~~information handling, system design and analysis,~~  
 33 ~~conversion of data, computer programming, information~~  
 34 ~~storage and retrieval, telecommunications that include~~  
 35 ~~voice, video, and data communications, requisite system~~  
 36 ~~controls, simulation, and electronic commerce.~~

