

AMENDED IN SENATE JUNE 26, 2000

AMENDED IN SENATE JUNE 13, 2000

AMENDED IN ASSEMBLY MAY 11, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2935**

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**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 Section 1563 of the Code of Civil Procedure, 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, and to amend Section 12101.5 of the Public Contract 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 provides generally that all escheated property delivered to the Controller shall be sold by the Controller to the highest bidder at public sale in a city that affords the most favorable market for the property.

This bill would also authorize the Controller to conduct the sale of that property by electronic media if in his or her judgment it is cost effective.

(3) 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.

(4) 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.

(5) Under existing law governing state procurements, state agencies may use multiple awards, including federal General Services Administration ~~multiple award schedules~~ *Multiple Award Schedules*, to obtain commodities and electronic data processing and telecommunications goods, master services agreements for electronic data processing personal services, master agreements for equipment, and master equipment services agreements.

This bill would, in addition, permit state agencies to use competitively bid, multistate cooperative purchasing agreements in procuring the above-listed goods and services.

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,



1 in like manner and with like effect, as grants thereof;  
2 provided, however, that a mortgage or deed of trust of  
3 real property may be recorded and constructive notice of  
4 the same and the contents thereof given in the following  
5 manner:

6 Any person may record in the office of the county  
7 recorder of any county fictitious mortgages and deeds of  
8 trust of real property. Those fictitious mortgages and  
9 deeds of trust need not be acknowledged, or proved or  
10 certified to be recorded or entitled to record. Those  
11 mortgages and deeds of trust shall have noted upon the  
12 face thereof that they are fictitious. The county recorder  
13 shall index and record fictitious mortgages and deeds of  
14 trust in the same manner as other mortgages and deeds  
15 of trust are recorded, and shall note on all indices and  
16 records of the same that they are fictitious. Thereafter,  
17 any of the provisions of any recorded fictitious mortgage  
18 or deed of trust may be included for any and all purposes  
19 in any mortgage or deed of trust by reference therein to  
20 any of those provisions, without setting the same forth in  
21 full; provided, the fictitious mortgage or deed of trust is  
22 of record in the county in which the mortgage or deed of  
23 trust adopting or including by reference any of the  
24 provisions thereof is recorded. The reference shall  
25 contain a statement, as to each county in which the  
26 mortgage or deed of trust containing such a reference is  
27 recorded, of the date the fictitious mortgage or deed of  
28 trust was recorded, the county recorder's office wherein  
29 it is recorded, and the book or volume and the first page  
30 of the records in the recorder's office wherein and at  
31 which the fictitious mortgage or deed of trust was  
32 recorded, and a statement by paragraph numbers or any  
33 other method that will definitely identify the same, of the  
34 specific provisions of the fictitious mortgage or deed of  
35 trust that are being so adopted and included therein. The  
36 recording of any mortgage or deed of trust which has  
37 included therein any of those provisions by reference as  
38 aforesaid shall operate as constructive notice of the whole  
39 thereof including the terms, as a part of the written  
40 contents of the mortgage or deed of trust, of those



1 provisions so included by reference as though the same  
2 were written in full therein. The parties bound or to be  
3 bound by provisions so adopted and included by  
4 reference shall be bound thereby in the same manner and  
5 with like effect for all purposes as though those provisions  
6 had been and were set forth in full in any mortgage or  
7 deed of trust.

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

11 SEC. 2. Section 1563 of the Code of Civil Procedure is  
12 amended to read:

13 1563. (a) Except as provided in subdivisions (b) and  
14 (d), all escheated property delivered to the Controller  
15 under this chapter shall be sold by the Controller to the  
16 highest bidder at public sale in whatever city in the state  
17 affords in his or her judgment the most favorable market  
18 for the property involved, or the Controller may conduct  
19 the sale by electronic media, including but not limited to  
20 the Internet, if in his or her judgment it is cost effective  
21 to conduct the sale in that manner. The Controller may  
22 decline the highest bid and reoffer the property for sale  
23 if he or she considers the price bid insufficient. The  
24 Controller need not offer any property for sale if, in his  
25 or her opinion, the probable cost of sale exceeds the value  
26 of the property. Any sale of escheated property held  
27 under this section shall be preceded by a single  
28 publication of notice thereof, at least one week in advance  
29 of sale, in an English language newspaper of general  
30 circulation in the county where the property is to be sold.

31 (b) Securities listed on an established stock exchange  
32 within two years following receipt by the Controller shall  
33 be sold at the prevailing prices on that exchange. Other  
34 securities may be sold over the counter at prevailing  
35 prices or, with prior approval of the State Board of  
36 Control, by any other method that the Controller may  
37 determine to be advisable. United States government  
38 savings bonds and United States war bonds shall be  
39 presented to the United States for payment. Subdivision



1 (a) does not apply to the property described in this  
2 subdivision.

3 (c) All escheated property consisting of military  
4 awards and decorations that is delivered to the Controller  
5 is exempt from subdivision (a) and shall be held in trust  
6 for the Controller at the California National Guard  
7 Museum and Resource Center. Any person claiming an  
8 interest in the escheated property may file a claim to the  
9 property pursuant to Article 4 (commencing with  
10 Section 1540).

11 (d) The purchaser at any sale conducted by the  
12 Controller pursuant to this chapter shall receive title to  
13 the property purchased, free from all claims of the owner  
14 or prior holder thereof and of all persons claiming  
15 through or under them. The Controller shall execute all  
16 documents necessary to complete the transfer of title.

17 SEC. 3. Section 26205 of the Government Code is  
18 amended to read:

19 26205. At the request of the county officer concerned,  
20 the board of supervisors of any county may authorize the  
21 destruction of any record, paper, or document that is not  
22 expressly required by law to be filed and preserved if all  
23 of the following conditions are complied with:

24 (a) The record, paper, or document is photographed,  
25 microphotographed, reproduced by electronically  
26 recorded video images on magnetic surfaces, recorded in  
27 the electronic data-processing system, recorded on  
28 optical disk, or reproduced on film or any other medium  
29 that is a trusted system and that does not permit additions,  
30 deletions, or changes to the original document and is  
31 produced in compliance with the regulations adopted by  
32 the Secretary of State, as specified in Section 12168.7 for  
33 recording of permanent records or nonpermanent  
34 records.

35 (b) The device used to reproduce the record, paper,  
36 or document on film, optical disk, or any other medium  
37 is one that accurately reproduces the original thereof in  
38 all details and that does not permit additions, deletions,  
39 or changes to the original document images.



1 (c) The photographs, microphotographs,  
 2 electronically recorded video images on magnetic  
 3 surfaces, records in the electronic data-processing  
 4 system, records recorded on optical disk, or other  
 5 reproductions on film or any other medium, including  
 6 information technology pursuant to Section 30701, are  
 7 placed in conveniently accessible files and provision is  
 8 made for preserving, examining, and using the files.

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

20 SEC. 4. Section 26205.1 of the Government Code is  
 21 amended to read:

22 26205.1. (a) The county officer having custody of  
 23 nonjudicial public records, documents, instruments,  
 24 books, and papers may cause to be destroyed any or all of  
 25 the records, documents, instruments, books, and papers  
 26 if all of the following conditions exist:

27 (1) The board of supervisors of the county has adopted  
 28 a resolution authorizing the county officer to destroy  
 29 records, documents, instruments, books, and papers  
 30 pursuant to this subdivision. The resolution may impose  
 31 conditions, in addition to those specified in this  
 32 subdivision, that the board of supervisors determines are  
 33 appropriate.

34 (2) The county officer who destroys any record,  
 35 document, instrument, book, or paper pursuant to the  
 36 authority granted by this subdivision and a resolution of  
 37 the board of supervisors adopted pursuant to paragraph  
 38 (1) shall maintain for the use of the public a photographic  
 39 or microphotographic film, electronically recorded video  
 40 production, a record contained in the electronic



1 data-processing system, a record recorded on optical disk,  
2 a record recorded by any other medium that does not  
3 permit additions, deletions, or changes to the original  
4 document, or other duplicate of the record, document,  
5 instrument, book, or paper destroyed.

6 (3) The record, paper or document is photographed,  
7 microphotographed, reproduced by electronically  
8 recorded video images on magnetic surfaces, recorded in  
9 the electronic data-processing system, recorded on  
10 optical disk or reproduced on film or any other medium,  
11 or information technology pursuant to Section 30701, that  
12 is a trusted system and that does not permit additions,  
13 deletions, or changes to the original document and is  
14 produced in compliance with the regulations adopted by  
15 the Secretary of State, as specified in Section 12168.7 for  
16 recording of permanent records or nonpermanent  
17 records.

18 (b) Paragraphs (2) and (3) of subdivision (a) do not  
19 apply to records prepared or received other than  
20 pursuant to a state statute or county charter, or records  
21 that are not expressly required by law to be filed and  
22 preserved.

23 For the purposes of this section, every reproduction  
24 shall be deemed to be an original record and a transcript,  
25 exemplification, or certified copy of any reproduction  
26 shall be deemed to be a transcript, exemplification, or  
27 certified copy, as the case may be, of the original.

28 (c) The county clerk having custody of the original or  
29 a copy of the articles of any corporation may cause the  
30 destruction of any or all the documents. "Articles"  
31 includes the articles of incorporation, amendments  
32 thereto, amended articles, restated articles, certificate of  
33 incorporation, certificates of determination of  
34 preferences, dissolution certificates, merger certificates,  
35 and agreements of consolidation or merger.

36 (d) Notwithstanding any other provision of this  
37 section, destruction of the original records, papers, or  
38 documents is not authorized when the method of  
39 reproduction pursuant to this section is reproduction of  
40 electronically recorded video images on magnetic



1 surfaces unless a duplicate videotape of the images is  
2 separately maintained. A duplicate copy of a record  
3 contained in the electronic data-processing system, on  
4 optical disk, or on any other medium that does not permit  
5 additions, deletions, or changes to the original document  
6 shall also be separately maintained.

7 SEC. 5. Section 27001 of the Government Code is  
8 amended to read:

9 27001. The treasurer shall file and keep the  
10 certificates of the auditor delivered to him or her when  
11 money is paid into the treasury. Notwithstanding Sections  
12 26201, 26202, and 26205, the treasurer may destroy any  
13 certificate pursuant to this section under either of the  
14 following circumstances:

15 (a) The certificate has been filed for more than five  
16 years.

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

20 (1) The record, paper, or document is photographed,  
21 microphotographed, or reproduced on film of a type  
22 approved for permanent photographic records by the  
23 National Bureau of Standards.

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

27 (3) The photographs, microphotographs, or other  
28 reproductions on film are placed in conveniently  
29 accessible files and provision is made for preserving,  
30 examining, and using the same.

31 (4) The record, paper, or document is reproduced and  
32 preserved utilizing other information technology that is  
33 used in accordance with Section 30701.

34 SEC. 6. Section 27002.1 of the Government Code is  
35 amended to read:

36 27002.1. (a) The treasurer may, in lieu of entering in  
37 books an account of the receipt and expenditure of all  
38 money received or paid out by him or her as provided in  
39 Section 27002, photograph, microphotograph, photocopy,  
40 or enter into an electronic data processing system that



1 utilizes optical transmission and filing, all receipts for  
2 money received by him or her and all warrants paid out  
3 by him or her.

4 (b) Every reproduction described in subdivision (a)  
5 shall be deemed and considered an original, and a  
6 transcript, exemplification, or certified copy of any of  
7 those reproductions shall be deemed and considered a  
8 transcript, exemplification, or certified copy, as the case  
9 may be, of the original.

10 (c) All reproductions described in subdivision (a) shall  
11 be properly indexed and placed in convenient, accessible  
12 files. Each roll of microfilm shall be deemed and  
13 constitute a book, and shall be designated and numbered,  
14 and provision shall be made for preserving, examining,  
15 and using it.

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

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

20 SEC. 7. Section 27201 of the Government Code is  
21 amended to read:

22 27201. (a) The recorder shall, upon payment of  
23 proper fees and taxes, accept for recordation any  
24 instrument, paper, or notice that is authorized or  
25 required by statute or court order to be recorded, if the  
26 instrument, paper, or notice contains sufficient  
27 information to be indexed as provided by statute, meets  
28 recording requirements of state statutes and local  
29 ordinances, and is photographically reproducible. The  
30 county recorder shall not refuse to record any  
31 instrument, paper, or notice that is authorized or  
32 required by statute or court order to be recorded on the  
33 basis of its lack of legal sufficiency.

34 “Photographically reproducible,” for purposes of this  
35 division, means all instruments, papers, or notices that  
36 comply with standards as recommended by the American  
37 National Standards Institute or the Association for  
38 Information and Image Management for recording of  
39 records.



1 (b) Each instrument, paper, or notice shall contain an  
2 original signature or signatures, except as otherwise  
3 provided by law, or be a certified copy of the original. A  
4 facsimile signature shall be accepted on a lien recorded  
5 by a governmental agency when that facsimile signature  
6 has been officially adopted by that agency. The lien shall  
7 have noted on its face a statement to that effect.

8 SEC. 8. Chapter 13 (commencing with Section 30700)  
9 is added to Division 3 of Title 3 of the Government Code,  
10 to read:

11

12 CHAPTER 13. INFORMATION TECHNOLOGY

13

14 30700. The Legislature finds that information  
15 technology is an indispensable tool of modern  
16 government for the rapid and efficient handling of data,  
17 records, communication, and transactions, and for  
18 assisting decision makers in carrying out their tasks and  
19 responsibilities at all levels of government.

20 30701. (a) A method of information technology used  
21 for receiving, storing, and retaining information shall  
22 meet either of the following:

23 (1) The standards established by the American  
24 National Standards Institute (ANSI), the Association for  
25 Information and Image Management (AIIM), the  
26 International Standards Organization (ISO), the United  
27 States National Standards Committee (USNSC), or the  
28 International Electrotechnical Commission (IEC).

29 (2) The standards referenced in paragraph (1) as  
30 modified by statute or regulation.

31 (b) No method of information technology may be used  
32 pursuant to subdivision (a) if the method would infringe  
33 on any right of privacy under the United States or  
34 California Constitution, any federal law, or any law of this  
35 state.

36 30702. (a) For purposes of this chapter, “information  
37 technology” means a method of information processing  
38 or handling that includes, but is not limited to, all  
39 electronic technology systems and services, automated  
40 information handling, system design and analysis,



1 conversion of data, computer programming, information  
2 storage and retrieval, ~~telecommunications or other~~  
3 ~~communications that include voice, video, and data~~  
4 ~~communications~~ *communications technologies*, requisite  
5 system controls, simulation, and electronic commerce.

6 *(b) For purposes of this chapter, “communications”*  
7 *means the transmission of writing, signs, signals, pictures,*  
8 *and sounds of all kinds, including all instrumentalities,*  
9 *facilities, apparatus, and services (among other things,*  
10 *the receipt, forwarding, and delivery of*  
11 *communications) incidental to the transmission.*  
12 *“Communications services” include, but are not limited*  
13 *to, telecommunications services, cable services,*  
14 *broadcast services, mobile services, wireless services, and*  
15 *satellite services.*

16 SEC. 9. Section 12101.5 of the Public Contract Code  
17 is amended to read:

18 12101.5. (a) It is the intent of the Legislature that  
19 agencies of the State of California use an acquisition  
20 method that is compatible with their short- and long-term  
21 fiscal needs in contracts relating to commodities,  
22 electronic data processing, and telecommunications  
23 goods and services. State agencies should be able to  
24 specify their anticipated life cycle requirements that  
25 would become one of the criteria for procurement  
26 selection. These agencies should be given the choice of  
27 vendors to meet statewide standardization needs, unique  
28 service requirements, application requirements, and  
29 long-term satisfaction criteria. There is a need for the  
30 State of California to enter into long-term contracts with  
31 annual cancellation and fund out clauses, as required, to  
32 protect the state’s interests as well as provide the option  
33 for multiyear renewals to encourage vendors to develop  
34 higher levels of service and support throughout the  
35 contracts.

36 (b) The state may use multiple awards, including  
37 federal General ~~Service~~ *Services* Administration  
38 Multiple Awards Schedules in procurements for  
39 commodities, electronic data processing, and  
40 telecommunications goods; master services agreements



1 for electronic data processing personal services; master  
2 agreements for equipment; and master equipment  
3 services agreements. For purposes of this subdivision, a  
4 multiple award is an award of an indefinite quantity  
5 contract for one or more similar goods to more than one  
6 vendor. Except for possible multiple awards as permitted  
7 by this subdivision, all the requirements of this chapter  
8 pertaining to other types of electronic data processing  
9 and telecommunications procurements shall be followed.  
10 The Department of General Services shall ensure that  
11 multiple award schedules are in compliance with all other  
12 applicable statutes.

13 (c) Notwithstanding any other provision of law, state  
14 agencies, in exercising their delegation of procurement  
15 authority from the Department of General Services, may  
16 make awards to vendors who have multiple award  
17 schedules with the General Services Administration of  
18 the United States on the same terms, conditions, and  
19 prices if the vendor is willing to do so. The department  
20 may also develop multiple award agreements for use by  
21 state agencies in the same manner. The Department of  
22 General Services shall determine the delegation  
23 procurement authority for agencies wishing to use  
24 multiple award schedules pursuant to the State  
25 Administrative Manual.

26 (d) The state may participate in and use competitively  
27 bid, multistate cooperative purchasing agreements in  
28 procurements for commodities, electronic data  
29 processing, and telecommunications goods; master  
30 services agreements for electronic data processing  
31 personal services; master agreements for equipment; and  
32 master equipment services agreements.

