

Assembly Bill No. 2935

CHAPTER 924

An act to amend Section 2952 of the Civil Code, to amend Section 1563 of the Code of Civil Procedure, and to amend Sections 27001, 27002.1, and 27201 of the Government Code, relating to government records.

[Approved by Governor September 29, 2000. Filed
with Secretary of State September 29, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2935, 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 the county treasurer to destroy certain certificates of the auditor delivered to the treasurer when money is paid into the treasury under certain circumstances and to enter records of receipt and expenditure of money paid out or received by photography, entry into an electronic data processing system, or other methods.

This bill would authorize the recording and preservation of documents by the county treasurer 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.

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

SECTION 1. Section 2952 of the Civil Code is amended to read:



2952. Mortgages and deeds of trust of real property may be acknowledged or proved, certified and recorded, in like manner and with like effect, as grants thereof; provided, however, that a mortgage or deed of trust of real property may be recorded and constructive notice of the same and the contents thereof given in the following manner:

Any person may record in the office of the county recorder of any county fictitious mortgages and deeds of trust of real property. Those fictitious mortgages and deeds of trust need not be acknowledged, or proved or certified to be recorded or entitled to record. Those mortgages and deeds of trust shall have noted upon the face thereof that they are fictitious. The county recorder shall index and record fictitious mortgages and deeds of trust in the same manner as other mortgages and deeds of trust are recorded, and shall note on all indices and records of the same that they are fictitious. Thereafter, any of the provisions of any recorded fictitious mortgage or deed of trust may be included for any and all purposes in any mortgage or deed of trust by reference therein to any of those provisions, without setting the same forth in full; provided, the fictitious mortgage or deed of trust is of record in the county in which the mortgage or deed of trust adopting or including by reference any of the provisions thereof is recorded. The reference shall contain a statement, as to each county in which the mortgage or deed of trust containing such a reference is recorded, of the date the fictitious mortgage or deed of trust was recorded, the county recorder's office wherein it is recorded, and the book or volume and the first page of the records in the recorder's office wherein and at which the fictitious mortgage or deed of trust was recorded, and a statement by paragraph numbers or any other method that will definitely identify the same, of the specific provisions of the fictitious mortgage or deed of trust that are being so adopted and included therein. The recording of any mortgage or deed of trust which has included therein any of those provisions by reference as aforesaid shall operate as constructive notice of the whole thereof including the terms, as a part of the written contents of the mortgage or deed of trust, of those provisions so included by reference as though the same were written in full therein. The parties bound or to be bound by provisions so adopted and included by reference shall be bound thereby in the same manner and with like effect for all purposes as though those provisions had been and were set forth in full in any mortgage or deed of trust.

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

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



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

(b) Securities listed on an established stock exchange within two years following receipt by the Controller shall be sold at the prevailing prices on that exchange. Other securities may be sold over the counter at prevailing prices or, with prior approval of the State Board of Control, by any other method that the Controller may determine to be advisable. United States government savings bonds and United States war bonds shall be presented to the United States for payment. Subdivision (a) does not apply to the property described in this subdivision.

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

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

SEC. 3. Section 27001 of the Government Code is amended to read:

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

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

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



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

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

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

(4) The record, paper, or document is reproduced and preserved utilizing other information technology .

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

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

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

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

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

SEC. 5. Section 27201 of the Government Code is amended to read:

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

“Photographically reproducible,” for purposes of this division, means all instruments, papers, or notices that comply with standards



as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of records.

(b) (1) Each instrument, paper, or notice shall contain an original signature or signatures, except as otherwise provided by law, or be a certified copy of the original.

(2) A facsimile signature shall be accepted on a lien recorded by a governmental agency when that facsimile signature has been officially adopted by that agency. The lien shall have noted on its face a statement to that effect. A copy of the agency's resolution or action adopting the signature for facsimile transmission purposes or a certified copy of the agency's adopted signature shall be provided to the county recorder when the signature is officially adopted by the agency, or at the beginning of each calendar year.

