



MEMORANDUM

TO: All Recording Customers
FROM: Steve J. Bestolarides, Assessor-Recorder-County Clerk
SUBJECT: Change in Recording Fee –
Government Code section 27388.1 – Affordable Housing & Jobs Act Fee (SB 2) signed by the Governor and filed with the Secretary of State September 29, 2017, Effective January 1, 2018

Pursuant to the provisions of SB2, and in accordance with the legislative amendment of Government Code Section 27388.1, effective January 1, 2018, all documents accepted for recording by the San Joaquin County Recorder's Office shall be charged an additional seventy-five dollar (\$75.00) fee to fund the State's Affordable Housing and Jobs Act. (The full text of Government Code 27388.1 follows this Memorandum.)

As mandated by the new legislation, a fee of seventy-five dollars (\$75) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, except those expressly exempted from payment of recording fees, per each single transaction per parcel of real property. The fee imposed by this section shall not exceed two-hundred twenty-five dollars (\$225.00)

The new legislation does allow for a limited number of exemptions from the payment of the fee. However, in order to qualify, **you must first execute a valid declaration of exemption and place it on the face of each exempt document before depositing it with the Recorder. Please note that your failure to provide the Recorder a valid declaration of exemption will result in the imposition and collection of the fee.**

The following are examples of declarations of exemption that must appear as the first page of each exempt document submitted for recording:

1. A declaration stating that the transfer is subject to payment of the Documentary Transfer Tax (DTT), including the amount of DTT due and to be paid at the time of recording;
2. A declaration stating that the document is exempt under Government Code Section 27388.1(a)(2), because it is being recorded concurrently and "in connection with" a transfer subject to the imposition of the DTT;
3. A declaration stating that the document is exempt under Government Code Section 27388.1(a)(2), because it is a transfer of a real property residential dwelling to an owner-occupier;
4. A declaration stating that the document is exempt under Government Code Section 27388.1(a)(2), because it is being recorded concurrently and "in connection with" a transfer of a real property residential dwelling to an owner-occupier;
5. A declaration stating that the document is exempt under Government Code Section 27388.1(a)(1), because the \$225.00 fee cap has already been reached; or,
6. A declaration stating that the document is exempt under Government Code Section 27388.1(a)(1), because it is not related to real property.

Failure to include a specified reason for an exemption will result in the imposition of the \$75.00 fee. The Affordable Housing and Jobs Act fees are collected on behalf of the State and are deposited with the State for the funding of the State program.

Statutory Authority

SEC. 3.

Section 27388.1 is added to the Government Code, to read:

27388.1.

(a) (1) Commencing January 1, 2018, and except as provided in paragraph (2), in addition to any other recording fees specified in this code, a fee of seventy-five dollars (\$75) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, except those expressly exempted from payment of recording fees, per each single transaction per parcel of real property. The fee imposed by this section shall not exceed two hundred twenty-five dollars (\$225). "Real estate instrument, paper, or notice" means a document relating to real property, including, but not limited to, the following: deed, grant deed, trustee's deed, deed of trust, reconveyance, quit claim deed, fictitious deed of trust, assignment of deed of trust, request for notice of default, abstract of judgment, subordination agreement, declaration of homestead, abandonment of homestead, notice of default, release or discharge, easement, notice of trustee sale, notice of completion, UCC financing statement, mechanic's lien, maps, and covenants, conditions, and restrictions.

(2) The fee described in paragraph (1) shall not be imposed on any real estate instrument, paper, or notice recorded in connection with a transfer subject to the imposition of a documentary transfer tax as defined in Section 11911 of the Revenue and Taxation Code or on any real estate instrument, paper, or notice recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier.

(b) The county recorder shall remit quarterly, on or before the last day of the month next succeeding each calendar quarterly period, the fees, after deduction of any actual and necessary administrative costs incurred by the county recorder in carrying out this section, to the Controller for deposit in the Building Homes and Jobs Trust Fund established by Section 50470 of the Health and Safety Code, to be expended for the purposes set forth in that section. In addition, the county shall pay to the Controller interest, at the legal rate, on any funds not paid to the Controller before the last day of the month next succeeding each quarterly period.

(c) If the Department of Housing and Community Development determines that any moneys derived from fees collected are being allocated by the state for a purpose not authorized by Section 50470 of the Health and Safety Code, the county recorder shall, upon notice of the determination, immediately cease collection of the fees, and shall resume collection of those fees only upon notice that the moneys derived from the fees collected are being allocated by the state only for a purpose authorized by Section 50470 of the Health and Safety Code.