

November 27, 2017

Bill Creates New Real Estate Recording Fee

A bill enacted this year, SB 2, creates the “Building Homes and Jobs Act,” which promotes development of affordable housing across the state in part by imposing a new fee in connection with the recording of real estate instruments, papers, and notices. Proceeds go into a new State Treasury fund called the Building Homes and Jobs Fund. Moneys collected will be made available to local governments and to the Department of Housing and Community Development.¹

The new state fund is deemed necessary in order to keep pace with continuing demand for housing. In the preamble to the bill, the legislature states that, “Without a reliable source of funding for housing affordable to the state’s workforce and most vulnerable residents, the state and its local and private housing development partners will not be able to continue increasing the supply of housing after existing housing bond resources are depleted.”

Specifically, in addition to existing applicable recording fees, a fee of \$75 is imposed 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.” The fee is assessed “per each single transaction per parcel of real property,” not to exceed \$225.² Such papers include, without limitation, deeds, grant deeds, trustee’s deeds, deeds of trust, reconveyances, quit claim deeds, fictitious deeds of trust, assignments of deeds of trust, requests for notice of default, abstracts of judgment, subordination agreements, declarations of homestead, abandonment of homestead, notices of default, release or discharge, easement, notices of trustee sale, notices of completion, UCC financing statements, mechanic’s liens, maps, and covenants, conditions, and restrictions. An important exception is that the fee is not assessed on any recording made in connection with a sale of real property.³

² Government Code Section 27388.1.

³ Section 27388.1(a)(2) reads: “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

¹ SB 2 adds Section 27388.1 to the Government Code and Chapter 2.5 (commencing with Section 50470) to the Health and Safety Code.

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The fees assessed under SB 2 will apply as of January 1, 2018. However, banks should review their internal processes for possible impacts to customer disclosures prior to that time. Jason Lane was CBA's lead lobbyist on the bill.

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property that is a residential dwelling to an owner-occupier."
