



COUNTY OF SAN DIEGO

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TO: All Document Recording Customers

FROM: San Diego County Recorder's Office

DATE: November 22, 2017

SUBJECT: Change in Recording Fee – Senate Bill 2 (SB 2 – Atkins) Building Homes and Jobs Act - \$75 Fee in Effect January 1, 2018

The California Legislature passed and the Governor signed SB 2 – Atkins, Chapter 2.5 of the Statutes of 2017 changing that effective January 1, 2018, certain recordable documents shall be charged a fee to support the Building Homes and Jobs Act. This requirement is being made in accordance with the legislative amendment of Government Code § 27388.1. The full text of Government Code § 27388.1 is provided at the end of this memo.

The bill imposes a mandate on County Recorders to charge an additional \$75 at the time of recording 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 transaction per parcel of real property, not to exceed \$225 per single transaction.

Documents believed to be exempt from paying the \$75 Building Homes and Jobs Act fee must have a declaration of exemption specifying the reason for exemption from the fee on the face of the document, or on a coversheet to be recorded with the document, when submitted for recording. For example:

- Exempt from fee per GC27388.1 due to being recorded in connection with concurrent transfer that is subject to the imposition of documentary transfer tax, or,
- Exempt from fee per GC27388.1 due to being recorded in connection with a transfer that was subject to documentary transfer tax which was paid on document recorded previously on _____ (date) as document number _____ of Official Records, or,
- Exempt from fee per GC27388.1 due to the maximum fees being paid on documents in this transaction, or,
- Exempt from fee per GC27388.1 due to the maximum fees having been paid on documents in the transaction(s) recorded previously on _____ (date) as document number(s) _____ of Official Records, or,
- Exempt from fee per GC27388.1 due to being recorded in connection with concurrent transfer that is a residential dwelling to an owner-occupier, or,

- Exempt from fee per GC27388.1 due to it being recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier. The recorded document transferring the dwelling to the owner-occupier was recorded on _____ (date) as document number _____, or,
- Exempt from the fee per GC 27388.1 (a) (1); Not related to real property, or,
- Exempt from fee under GC27388.1 for the following reasons:

Failure to include an exemption reason will result in the imposition of the \$75 Building Homes and Jobs Act fee. Declarations of exemption are subject to review. Fees collected are deposited to the state and may not be available for refund.

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.