

Senate Bill 2 Building Homes and Jobs Act

Recording Guidelines

Effective January 1, 2018

Government Code 27388.1 reads as follows:

(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 of the following documents:

(A) 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.

(B) 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.

(C) Any real estate instrument, paper, or notice executed or recorded by the federal government in accordance with the Uniform Federal Lien Registration Act (Title 7 (commencing with Section 2100) of Part 4 of the Code of Civil Procedure).

(D) Any real estate instrument, paper, or notice executed or recorded by the state or any county, municipality, or other political subdivision of the state.

Documents believed to be exempt from paying the \$75 Building Homes and Jobs Act fee must have an exemption on the face of the document, or on the cover page, prior to depositing with the Recorder. The following exemptions may apply:

- Exempt from fee per GC 27388.1(a) because the document is recorded "in connection with a transfer" (i.e., as a direct result of, or otherwise necessary for) of real property that is:
 - Exempt from the fee per GC 27388.1(a)(2)(A) -- subject to the imposition of documentary transfer tax, **or**
 - Exempt from the fee per GC 27388.1(a)(2)(B) -- a residential dwelling to an owner-occupier
*If the document is not recorded concurrently with the original document recorded and exempt per 27388.1(a)(2)(A) or (B) above, you must provide the recording date and the recorder identification number or book and page of the previously recorded document.
- Exempt from fee per GC 27388.1(a)(1) because the fee cap of \$225 has been reached
- Exempt from the fee per GC 27388.1(a)(1) because the document is not related to real property
- Any real estate instrument, paper, or notice executed or recorded by the federal government in accordance with the Uniform Federal Lien Registration Act (Title 7 (commencing with Section 2100) of Part 4 of the Code of Civil Procedure).
- Any real estate instrument, paper, or notice executed or recorded by the state or any county, municipality, or other political subdivision of the state.

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

Frequently Asked Questions regarding Senate Bill 2 (SB 2)

Q1: What is the Building Homes and Jobs Recording Fee?

A: The new fee is an additional charge passed by the legislature and signed by the Governor to fund and establish permanent, ongoing sources of funding dedicated to affordable housing development. The fee is assessed at the time documents are recorded into the public record with the County Recorder's office.

Q2: Does the new Recording Fee replace previous charges for recording?

A: No, the new Recording Fee is charged in addition to current recording charges.

Q3: When does the new recording fee become due?

A: Effective January 1, 2018, the recording fee becomes due at the time an instrument, paper or notice is recorded with the County Recorder's office.

Q4: Is the Building Homes and Jobs Recording Fee charged on all documents presented for recording?

A: No, the Building Homes and Jobs Recording Fee is charged on real estate instruments, papers or notices permitted by law to be recorded unless otherwise exempt.

Q5: What is considered a "real estate instrument, paper or notice"?

A: The new legislation defines this as "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. We have provided a list of document titles and if the fee is applicable at the end of this document.

Q6: How much is the fee?

A: The fee is \$75.00 per instrument, paper or notice per each single transaction per parcel of real property.

Q7: What is considered a "Single Transaction"?

A: A transaction refers to instrument, paper or notice presented together and related to the same parties and property transfer.

Q8: Is there a maximum aggregate housing fee charge per transaction?

A: Yes. The maximum aggregate housing fee charge for real estate instrument, paper or notice recorded in a single transaction is \$225.00.

Q9: Are any real estate instruments exempt from the Building Homes and Jobs Recording Fee:

A: Yes. The following are real estate instruments, papers or notices exempt from the additional recording fee:

- Exempt from fee per GC 27388.1(a) because the document is recorded “in connection with a transfer” (i.e., as a direct result of, or otherwise necessary for) of real property that is:
 - Exempt from the fee per GC 27388.1(a)(2)(A) -- subject to the imposition of documentary transfer tax, **or**
 - Exempt from the fee per GC 27388.1(a)(2)(B) -- a residential dwelling to an owner-occupier
*If the document is not recorded concurrently with the original document recorded and exempt per 27388.1(a)(2)(A) or (B) above, you must provide the recording date and the recorder identification number or book and page of the previously recorded document.
- Exempt from fee per GC 27388.1(a)(1) because the fee cap of \$225 has been reached
- Exempt from the fee per GC 27388.1(a)(1) because the document is not related to real property
- Any real estate instrument, paper, or notice executed or recorded by the federal government in accordance with the Uniform Federal Lien Registration Act (Title 7 (commencing with Section 2100) of Part 4 of the Code of Civil Procedure).
 - Any real estate instrument, paper, or notice executed or recorded by the state or any county, municipality, or other political subdivision of the state.

Q10: What is considered a “Parcel of Real Property”?

A: A parcel is defined, for the purposes of interpretation of new Government Code Section 27388.1 as: “a contiguous piece of land of any size that is in one ownership.” The parcel is described by its individual legal description.

Q11: How will the County Recorder determine that maximum has been paid, such that additional instruments recorded in connection with a single transaction are not charged an additional fee?

A: After the maximum Building Homes and Jobs Recording Fee of \$225 has been met, the document submitter is encouraged to note the valid exemption. See Exemption Cover Page.

Q12: What real estate instruments, papers or notices will be considered recorded “in connection with” a transfer subject to the imposition of documentary transfer tax?

A: The document with documentary transfer tax stamped and paid on it is self-evident and requires no additional stamp. Associated documents will need to have the exemption stated in order to qualify as part of the exempt transaction. “In connection with a transfer”, as used in section 27388.1 (a) (2) should be construed narrowly to mean “as a direct result of, or otherwise necessary for”.

Q13: What real estate instrument, paper or notice will be considered recorded “in connection with” a transfer of real property that is a residential dwelling to an owner-occupier?

A: All instruments necessary to transfer ownership, relinquish debt and secure new debt recorded in a single transaction will be considered to be in connection with an exempt transfer, if an exemption is declared and presented with the document.

Q14: For real estate instrument, paper or notice to be considered recorded "in connection with" a transfer of real property that is a residential dwelling to an owner-occupier, must such document(s) be recorded at the same time with the document transferring a residential dwelling to an owner-occupier?

A: "In connection with a transfer", as used in section 27388.1 (a) (2) should be construed narrowly to mean "as a direct result of, or otherwise necessary for". Documents not recorded concurrently, but in connection with, a transfer, will need to include an exemption indicating they are part of an exempt transaction.

Q15: How are documents with multiple titles going to be charged the Building Homes and Jobs Recording Fees?

A: Documents with multiple titles will be charged **per title** and recording fees. A Substitution of Trustee and Full Reconveyance will be charged \$150.00 plus recording fees (2 titles). A Deed of Trust, that includes Assignment of Rents within the document, will be charged \$150.00 (2 titles) plus recording fees.

Q16: If recording a subdivision map describing multiple lots in a subdivision, is the Building Homes and Jobs Recording Fee due equal to the number of parcels being created by the map?

A: No. The fee will only be charged for a single transaction regardless of the number of parcels.

Q17: How will Covenants, Conditions and Restrictions (CCRs) for a subdivision be charged the Affordable Housing Recording Fee?

A: They will be charged \$75.00 plus recording fees, the property affected is treated as one parcel.

Q18: Are documents being re-recorded to correct a name or attach a legal description subject to the Affordable Housing Recording Fee?

A: Yes, previously recorded documents will be charged except minor corrections pursuant to Government Code 27201 (B) and (C).

DOCUMENTS W/Exemption	
1 document, 1 document title = \$0 1 parcel, No DTT TOTAL - \$0	All documents which have an EXEMPTION stated on the face of the document are exempt and NO fee will be assessed.
INDIVIDUAL DOCUMENTS- DTT PAID	
1 document, 1 document title = \$0 1 parcel, DTT Paid TOTAL - \$0	All documents which DTT has been paid are exempt and NO fee will be assessed.
INDIVIDUAL DOCUMENTS- NO DTT	
1 document, 1 document title = \$75 1 parcel, No DTT TOTAL - \$75	If there is 1 title and 1 parcel should only 1 \$75 be applied? 1st title charged \$75 includes the 1st parcel.
1 document, 1 document title = \$75 2 parcels = \$75, No DTT TOTAL = \$150	If there is 1 title and 2 parcels, the first \$75 applies to the first title/parcel and a second \$75 for the second parcel
1 document, 1 document title = \$75 3 parcels = \$150, No DTT TOTAL = \$225	
1 document, 1 document title = \$75 4 parcels = \$150 (\$300), No DTT TOTAL - \$225	The cap prevents the full charge, therefore the fee assessed to parcels is only \$150 instead of \$300 to not exceed total of \$225
1 document, 2 document titles = \$150 1 parcel, No DTT TOTAL = \$150	
1 document, 2 document titles = \$150 2 parcels = \$75, No DTT TOTAL = \$225	\$75 cannot be assessed on remaining documents, titles or parcels because the cap is reached.
1 document, 4 document titles = \$150 4 parcels = \$75, No DTT TOTAL = \$225	\$75 cannot be assessed on remaining documents, titles or parcels because the cap is reached.
CONCURRENT DOCUMENTS	
3 documents, 3 document titles = \$225 3 parcels = 0, No DTT TOTAL = \$225	\$75 cannot be assessed on remaining documents, titles or parcels because the cap is reached.
4 documents, 5 document titles = \$225 4 parcels = 0 (\$75), No DTT TOTAL = \$225	\$75 cannot be assessed on remaining documents, titles or parcels because the cap is reached.
No CAP - Unrelated Documents	
5 documents- 1title/1parcel each No DTT, non-related, but sent in together, TOTAL: \$75.00 x 5 = \$375.00	Because these documents are unrelated, each will be charged the \$75. For example, 5 lien releases mailed in together with 5 different or similar names.