

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 5. Fees [27360 - 27388]** ( Article 5 added by Stats. 1947, Ch. 424. )**27360.**

For services performed by the recorder's office, the county recorder shall charge and collect the fees fixed in this article.

(Amended by Stats. 2015, Ch. 269, Sec. 15. Effective January 1, 2016.)

**27360.5.**

As used in this code, the word "folio" means 100 words. Each figure, character, symbol, and initial, excluding punctuation marks, shall be regarded as a word for the purpose of computing fees by a recorder.

(Added by Stats. 1963, Ch. 22.)

**27361.**

(a) The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded shall not exceed ten dollars (\$10) for recording the first page and three dollars (\$3) for each additional page, to reimburse the county for the costs of services rendered pursuant to this subdivision, except the recorder may charge additional fees as follows:

(1) If the printing on printed forms is spaced more than nine lines per vertical inch or more than 22 characters and spaces per inch measured horizontally for not less than three inches in one sentence, the recorder shall charge one dollar (\$1) extra for each page or sheet on which printing appears, except, however, the extra charge shall not apply to printed words which are directive or explanatory in nature for completion of the form or on vital statistics forms. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(2) If a page or sheet does not conform with the dimensions described in subdivision (a) of Section 27361.5, the recorder shall charge three dollars (\$3) extra per page or sheet of the document. The funds generated by the extra charge authorized under this paragraph shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(b) One dollar (\$1) of each three dollar (\$3) fee for each additional page shall be deposited in the county general fund.

(c) Notwithstanding Section 68085, one dollar (\$1) for recording the first page and one dollar (\$1) for each additional page shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

(d) (1) In addition to all other fees authorized by this section, a county recorder may charge a fee of one dollar (\$1) for recording the first page of every instrument, paper, or notice required or permitted by law to be recorded, as authorized by each county's board of supervisors. The funds generated by this fee shall be used only by the county recorder collecting the fee for the purpose of implementing a social security number truncation program pursuant to Article 3.5 (commencing with Section 27300).

(2) A county recorder shall not charge the fee described in paragraph (1) after December 31, 2017, unless the county recorder has received reauthorization by the county's board of supervisors. A county recorder shall not seek reauthorization of the fee by the board before June 1, 2017, or after December 31, 2017. In determining the additional period of authorization, the board shall consider the review described in paragraph (4).

(3) Notwithstanding paragraph (2), a county recorder who, pursuant to subdivision (c) of Section 27304, secures a revenue anticipation loan, or other outside source of funding, for the implementation of a social security number truncation program, may be authorized to charge the fee described in paragraph (1) for a period not to exceed the term of repayment of the loan or other outside source of funding.

(4) A county board of supervisors that authorizes the fee described in this subdivision shall require the county auditor to conduct two reviews to verify that the funds generated by this fee are used only for the purpose of the program, as

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 5. Fees [27360 - 27388]** ( Article 5 added by Stats. 1947, Ch. 424. )

described in Article 3.5 (commencing with Section 27300) and for conducting these reviews. The reviews shall state the progress of the county recorder in truncating recorded documents pursuant to subdivision (a) of Section 27301, and shall estimate any ongoing costs to the county recorder of complying with subdivisions (a) and (b) of Section 27301. The board shall require that the first review be completed not before June 1, 2012, or after December 31, 2013, and that the second review be completed not before June 1, 2017, or after December 31, 2017. The reviews shall adhere to generally accepted accounting standards, and the review results shall be made available to the public.

(Amended by Stats. 2009, Ch. 606, Sec. 2. Effective January 1, 2010.)

**27361.1.**

Whenever two or more instruments, papers, or notices are serially incorporated on one form or sheet, or are attached to one another, except as an exhibit marked as such, each instrument, paper, or notice shall be considered to be a separate instrument, paper, or notice for the purpose of computing the fee established by Section 27361 of this code.

(Added by Stats. 1967, Ch. 56.)

**27361.2.**

Whenever any instrument, paper, or notice is recorded which contains references to more than one previously recorded document and which requires additional indexing by the county recorder to give notice required by law, an additional fee of one dollar (\$1) shall be charged for each reference to a previously recorded document, other than the first such reference, requiring additional indexing. References to group mining claims listed on a proof of labor shall be considered as only one reference when they are consecutively numbered or lettered alphabetically, and each break in consecutive numbers or letters shall be considered as an additional mine for fee purposes under this section and shall be so indexed in the index.

(Amended by Stats. 1971, Ch. 889.)

**27361.3.**

Notwithstanding any contrary provision of the law, the fee for recording every release of lien, encumbrance, or notice executed by the state, or any municipality, county, city, district or other political subdivision shall be eight dollars (\$8) if the original lien, encumbrance, or notice was recorded without fee as provided by Section 27383 of the Government Code.

No fee shall be charged for recording a release of lien, encumbrance, or notice which was recorded in error by the state, or any municipality, county, city, district or other political subdivision if there is noted on the face of the release of lien, encumbrance, or notice a statement to that effect.

Two dollars (\$2) for recording each release of lien pursuant to this section shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

(Amended by Stats. 1988, Ch. 344, Sec. 2.)

**27361.4.**

(a) The board of supervisors of any county may provide for an additional fee of one dollar (\$1) for filing every instrument, paper, or notice for record, in order to defray the cost of converting the county recorder's document storage system to micrographics. Upon completion of the conversion and payment of the costs therefor, this additional fee shall no longer be imposed.

(b) The board of supervisors of any county may provide for an additional fee, other than the fees authorized in subdivisions (a) and (c), of one dollar (\$1) for filing every instrument, paper, or notice for record provided that the resolution providing for the additional fee establishes the days of operation of the county recorder's offices as every business day except for legal holidays and those holidays designated as judicial holidays pursuant to Section 135 of the Code of Civil Procedure.

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 5. Fees [27360 - 27388]** ( Article 5 added by Stats. 1947, Ch. 424. )

(c) The board of supervisors of any county may provide for an additional fee, other than the fees authorized in subdivisions (a) and (b), of one dollar (\$1) for filing every instrument, paper, or notice for record provided that the resolution providing for the additional fee requires that the instrument, paper, or notice be indexed within two business days after the date of recordation.

(Amended by Stats. 1993, Ch. 710, Sec. 1. Effective January 1, 1994.)

**27361.5.**

(a) As used in Section 27361, a page shall be one printed side of a single piece of paper being 8½ inches by 11 inches.

(b) A sheet shall be one printed side of a single piece of paper which is not exactly 8½ inches by 11 inches but not greater than 8½ inches by 14 inches.

(Repealed and added by Stats. 1992, Ch. 87, Sec. 6. Effective January 1, 1993. Operative July 1, 1994, by Sec. 9 of Ch. 87.)

**27361.6.**

Except as otherwise provided by law or regulation, all documents submitted for recording shall have at least a ½-inch margin on the two vertical sides except in the space reserved for recording information. At least the top 2½ inches of the first page or sheet shall be reserved for recording information. The left-hand 3½ inches of the space shall be used by the public to show the name of the person requesting recording and the name and address to which the document is to be returned following recording. In the event the first page or sheet of a document does not comply with these requirements, a separate page shall be attached by the party requesting recording to the front of the document which meets these criteria and which reflects the title or titles of the document as required by Section 27324. Any printed form accepted for recordation that does not comply with the foregoing shall not affect the notice otherwise imparted by recording.

All instruments, papers, or notices presented for recordation shall be on a quality of paper and contain print of a size and color which will reproduce legibly by microphotographic or imaging processes as set forth in Sections 26205.5 and 27322.2.

Any instrument, paper, or notice presented for recordation which in any way modifies, releases, or cancels the provisions of a previously recorded document shall state the recorder identification number or book and page of the document number being modified, released, or canceled.

(Repealed and added by Stats. 1992, Ch. 87, Sec. 8. Effective January 1, 1993. Operative July 1, 1994, by Sec. 9 of Ch. 87.)

**27361.7.**

Whenever the text of a document presented for record may be made out but is not sufficiently legible to reproduce a readable photographic record, the recorder may require the person presenting it for record to substitute a legible original document or to prepare a legible copy of the first document by handwriting or typewriting and attach the same to the original as a part of the document for making the permanent photographic record. The handwritten or typewritten legible copy shall be certified by the party creating the copy under penalty of perjury as being a true copy of the original. As used in this section, the word "text" includes the notary seal, certificates, and other appendages thereto.

(Amended by Stats. 1981, Ch. 187, Sec. 1.)

**27361.8.**

Whenever any instrument, paper, or notice is recorded which requires additional indexing by the county recorder to give notice required by law and does not refer to a previously recorded document by reference, as covered in Section 27361.2, an additional fee of one dollar (\$1) shall be charged for each group of 10 names or fractional portion thereof after the initial group of 10 names.

(Added by Stats. 1980, Ch. 299.)

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 5. Fees [27360 - 27388]** ( Article 5 added by Stats. 1947, Ch. 424. )

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**27361.9.**

The board of supervisors of any county may provide for an additional fee for filing every preliminary notice pursuant to subdivision (a) of Section 8214 of the Civil Code for the exclusive purpose of defraying the cost of implementing and maintaining a system to facilitate compliance with subdivision (b) of Section 8214 of the Civil Code.

(Amended by Stats. 2010, Ch. 697, Sec. 34. Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697.)

**27364.**

The fee for each certificate under seal shall be set by the board of supervisors in an amount necessary to recover the direct and indirect costs of providing the product or service or the cost of enforcing any regulation for which the fee or charge is levied.

(Amended by Stats. 1993, Ch. 710, Sec. 2. Effective January 1, 1994.)

**27365.**

The fee for any copy of a birth, death, or marriage certificate, when the copy is made by the recorder, is the same as is payable to a state or local registrar of vital statistics.

(Added by Stats. 1947, Ch. 424.)

**27366.**

The fee for any copy of any other record or paper on file in the office of the recorder, when the copy is made by the recorder, shall be set by the board of supervisors in an amount necessary to recover the direct and indirect costs of providing the product or service or the cost of enforcing any regulation for which the fee or charge is levied.

(Amended by Stats. 1993, Ch. 710, Sec. 3. Effective January 1, 1994.)

**27369.**

The fee for searching the records of his office for a birth, death, or marriage certificate is the same as is payable to a state or local registrar of vital statistics; in all other cases, for each year, fifty cents (\$0.50).

(Added by Stats. 1947, Ch. 424.)

**27371.**

The fee for recording each map or plat where it is copied in a book of record is ten cents (\$0.10) for each course, plus ten cents (\$0.10) a folio for letters and figures on the map or plat.

When recording is by a photographic method the fee for recording each map or plat shall be the same as provided for under Sections 27361 and 27361.5 of this code.

(Amended by Stats. 1957, Ch. 1865.)

**27372.**

The fee for recording or filing and indexing each map wherein land is subdivided in lots, tracts, or parcels is five dollars (\$5) for the first page and two dollars (\$2) for each additional page.

(Amended by Stats. 1957, Ch. 1865.)

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 5. Fees [27360 - 27388]** ( Article 5 added by Stats. 1947, Ch. 424. )

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**27375.**

The fee for taking an acknowledgment of any instrument is seventy-five cents (\$0.75).

(Amended by Stats. 1957, Ch. 869.)

**27379.**

The fee for administering and certifying each oath or affirmation is fifty cents (\$0.50).

(Added by Stats. 1947, Ch. 424.)

**27380.**

The fee for filing, indexing, and keeping each paper not required by law to be recorded is three dollars (\$3).

(Amended by Stats. 1971, Ch. 59.)

**27381.**

No charge or fee shall be made for recording, indexing, or issuing certified copies of any discharge, certificate of service, certificate of satisfactory service, report of separation, or notice of separation of any officer, commissioned warrant officer, warrant officer, flight officer, cadet, midshipman, noncommissioned officer, petty officer, soldier, sailor, or marine separated, released, or discharged from the Army, Navy, Marine Corps, Coast Guard of the United States, Women's Army Corps, Women's Army Auxiliary Corps, Women's Reserve of Navy, Marine Corps, or Coast Guard, or from the Army and Navy Nurse Corps.

(Added by Stats. 1947, Ch. 424.)

**27383.**

No fee shall be charged by the recorder for services rendered to the State, to any municipality, county in the State or other political subdivision thereof, except for making a copy of a paper or record.

(Added by Stats. 1955, Ch. 488.)

**27387.**

In addition to any other fee, the county recorder shall collect a fee from any lienor, other than a governmental entity, for the recordation of an abstract of judgment or other document creating an involuntary lien within the meaning of Section 27297.5 affecting title to real property. The fee shall not exceed the actual cost to the recorder of providing the notice required by Section 27297.5.

(Amended by Stats. 1984, Ch. 144, Sec. 146.)

**27387.1.**

(a) In addition to any other recording fee, the recorder, pursuant to Section 27297.6, may collect a fee from the party filing a deed, quitclaim deed, deed of trust, notice of default, or notice of sale, unless that party is a government entity. The fee shall not exceed the mailing cost of the notice specified in Section 27297.6 and the actual cost to provide information, counseling, or assistance to a person who receives the notice, not to exceed seven dollars (\$7).

(b) The actual costs comprising the fee described in subdivision (a) may include administrative costs incurred by the recorder in performing the actions described in that subdivision. However, the administrative costs shall not exceed 10 percent of the total fee collected pursuant to subdivision (a).

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 5. Fees [27360 - 27388]** ( Article 5 added by Stats. 1947, Ch. 424. )

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

(Amended (as amended by Stats. 2011, Ch. 141, Sec. 3) by Stats. 2014, Ch. 65, Sec. 3. Effective January 1, 2015. Repealed as of January 1, 2020, by its own provisions. See later operative version, as amended by Sec. 4 of Stats. 2014, Ch. 65.)

**27387.1.**

(a) In addition to any other recording fee, the recorder may collect a fee from the party filing a deed, quitclaim deed, or deed of trust, other than a government entity, pursuant to Section 27297.6. The fee shall not exceed the mailing cost of the notice specified in Section 27297.6, not to exceed seven dollars (\$7).

(b) This section shall become operative on January 1, 2020.

(Amended (as added by Stats. 2011, Ch. 141, Sec. 4) by Stats. 2014, Ch. 65, Sec. 4. Effective January 1, 2015. Section operative January 1, 2020, by its own provisions.)

**27388.**

(a) (1) In addition to any other recording fees specified in this code, upon the adoption of a resolution by the county board of supervisors, a fee of up to ten dollars (\$10) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded within that county, except those expressly exempted from payment of recording fees and except as provided in paragraph (2). For purposes of this section, "real estate instrument" means a deed of trust, an assignment of deed of trust, an amended deed of trust, an abstract of judgment, an affidavit, an assignment of rents, an assignment of a lease, a construction trust deed, covenants, conditions, and restrictions (CC&Rs), a declaration of homestead, an easement, a lease, a lien, a lot line adjustment, a mechanics lien, a modification for deed of trust, a notice of completion, a quitclaim deed, a subordination agreement, a release, a reconveyance, a request for notice, a notice of default, a substitution of trustee, a notice of trustee sale, a trustee's deed upon sale, or a notice of rescission of declaration of default, or any Uniform Commercial Code amendment, assignment, continuation, statement, or termination. The fees, after deduction of any actual and necessary administrative costs incurred by the county recorder in carrying out this section, shall be paid quarterly to the county auditor or director of finance, to be placed in the Real Estate Fraud Prosecution Trust Fund. The amount deducted for administrative costs shall not exceed 10 percent of the fees paid pursuant to this section.

(2) The fee imposed by paragraph (1) shall not apply to any real estate instrument, paper, or notice if any of the following apply:

(A) The real estate instrument, paper, or notice is accompanied by a declaration stating that the transfer is subject to a documentary transfer tax pursuant to Section 11911 of the Revenue and Taxation Code.

(B) The real estate instrument, paper, or notice is recorded concurrently with a document subject to a documentary transfer tax pursuant to Section 11911 of the Revenue and Taxation Code.

(C) The real estate instrument, paper, or notice is presented for recording within the same business day as, and is related to the recording of, a document subject to a documentary transfer tax pursuant to Section 11911 of the Revenue and Taxation Code. A real estate instrument, paper, or notice that is exempt under this subparagraph shall be accompanied by a statement that includes both of the following:

(i) A statement that the real estate instrument, paper, or notice is exempt from the fee imposed under paragraph (1).

(ii) A statement of the recording date and the recorder identification number or book and page of the previously recorded document.

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 5. Fees [27360 - 27388]** ( Article 5 added by Stats. 1947, Ch. 424. )

(b) Money placed in the Real Estate Fraud Prosecution Trust Fund shall be expended to fund programs to enhance the capacity of local police and prosecutors to deter, investigate, and prosecute real estate fraud crimes. After deduction of the actual and necessary administrative costs referred to in subdivision (a), 60 percent of the funds shall be distributed to district attorneys subject to review pursuant to subdivision (d), and 40 percent of the funds shall be distributed to local law enforcement agencies within the county in accordance with subdivision (c). In those counties where the investigation of real estate fraud is done exclusively by the district attorney, after deduction of the actual and necessary administrative costs referred to in subdivision (a), 100 percent of the funds shall be distributed to the district attorney, subject to review pursuant to subdivision (d). A portion of the funds may be directly allocated to the county recorder to support county recorder fraud prevention programs, including, but not limited to, the fraud prevention program provided for in Section 27297.7. Prior to establishing or increasing fees pursuant to this section, the board of supervisors may consider support for county recorder fraud prevention programs. The funds so distributed shall be expended for the exclusive purpose of deterring, investigating, and prosecuting real estate fraud crimes.

(c) The county auditor or director of finance shall distribute funds in the Real Estate Fraud Prosecution Trust Fund to eligible law enforcement agencies within the county pursuant to subdivision (b), as determined by a Real Estate Fraud Prosecution Trust Fund Committee composed of the district attorney, the county chief administrative officer, the chief officer responsible for consumer protection within the county, and the chief law enforcement officer of one law enforcement agency receiving funding from the Real Estate Fraud Prosecution Trust Fund, the latter being selected by a majority of the other three members of the committee. The chief law enforcement officer shall be a nonvoting member of the committee and shall serve a one-year term, which may be renewed. Members may appoint representatives of their offices to serve on the committee. If a county lacks a chief officer responsible for consumer protection, the county board of supervisors may appoint an appropriate representative to serve on the committee. The committee shall establish and publish deadlines and written procedures for local law enforcement agencies within the county to apply for the use of funds and shall review applications and make determinations by majority vote as to the award of funds using the following criteria:

(1) Each law enforcement agency that seeks funds shall submit a written application to the committee setting forth in detail the agency's proposed use of the funds.

(2) In order to qualify for receipt of funds, each law enforcement agency submitting an application shall provide written evidence that the agency either:

(A) Has a unit, division, or section devoted to the investigation or prosecution of real estate fraud, or both, and the unit, division, or section has been in existence for at least one year prior to the application date.

(B) Has on a regular basis, during the three years immediately preceding the application date, accepted for investigation or prosecution, or both, and assigned to specific persons employed by the agency, cases of suspected real estate fraud, and actively investigated and prosecuted those cases.

(3) The committee's determination to award funds to a law enforcement agency shall be based on, but not be limited to, (A) the number of real estate fraud cases filed in the prior year; (B) the number of real estate fraud cases investigated in the prior year; (C) the number of victims involved in the cases filed; and (D) the total aggregated monetary loss suffered by victims, including individuals, associations, institutions, or corporations, as a result of the real estate fraud cases filed, and those under active investigation by that law enforcement agency.

(4) Each law enforcement agency that, pursuant to this section, has been awarded funds in the previous year, upon reapplication for funds to the committee in each successive year, in addition to any information the committee may require in paragraph (3), shall be required to submit a detailed accounting of funds received and expended in the prior year. The accounting shall include (A) the amount of funds received and expended; (B) the uses to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type; (C) the number of filed complaints, investigations, arrests, and convictions that resulted from the expenditure of the funds; and (D) other relevant information the committee may reasonably require.

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 5. Fees [27360 - 27388]** ( Article 5 added by Stats. 1947, Ch. 424. )

---

(d) The county board of supervisors shall annually review the effectiveness of the district attorney in deterring, investigating, and prosecuting real estate fraud crimes based upon information provided by the district attorney in an annual report. The district attorney shall submit the annual report to the board on or before September 1 of each year.

(e) A county shall not expend funds held in that county's Real Estate Fraud Prosecution Trust Fund until the county's auditor-controller verifies that the county's district attorney has submitted an annual report for the county's most recent full fiscal year pursuant to the requirements of subdivision (d).

(f) The intent of the Legislature in enacting this section is to have an impact on real estate fraud involving the largest number of victims. To the extent possible, an emphasis should be placed on fraud against individuals whose residences are in danger of, or are in, foreclosure as defined in subdivision (b) of Section 1695.1 of the Civil Code. Case filing decisions continue to be at the discretion of the prosecutor.

(g) A district attorney's office or a local enforcement agency that has undertaken investigations and prosecutions that will continue into a subsequent program year may receive nonexpended funds from the previous fiscal year subsequent to the annual submission of information detailing the accounting of funds received and expended in the prior year.

(h) No money collected pursuant to this section shall be expended to offset a reduction in any other source of funds. Funds from the Real Estate Fraud Prosecution Trust Fund shall be used only in connection with criminal investigations or prosecutions involving recorded real estate documents.

*(Amended by Stats. 2015, Ch. 76, Sec. 1. Effective January 1, 2016.)*



**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 6. Electronic Recording Delivery Act of 2004 [27390 - 27399]** ( Article 6 added by Stats. 2004, Ch. 621, Sec. 2. )**27390.**

(a) This article shall be known and may be cited as the Electronic Recording Delivery Act of 2004.

(b) For the purposes of this article, the following definitions shall apply:

(1) "Authorized submitter" means a party that has entered into a contract with a county recorder pursuant to subdivision (b) of Section 27391 and is not disqualified pursuant to Section 27395.

(2) "Computer security auditor" means computer security personnel hired to perform an independent audit of the electronic recording delivery system. The computer security auditor shall be independent of the county recorder and the authorized submitter and shall not be the same contractor hired to establish or participate in a county's electronic recording delivery system or in the authorized submitter's portion of that system.

(3) "Digital electronic record" means a record containing information that is created, generated, sent, communicated, received, or stored by electronic means, but not created in original paper form.

(4) "Digitized electronic record" means a scanned image of the original paper document.

(5) "Electronic recording delivery system" means a system to deliver for recording, and to return to the party requesting recording, digitized or digital electronic records.

(6) "Security testing" means an independent security audit by a computer security auditor, including, but not limited to, attempts to penetrate an electronic recording delivery system for the purpose of testing the security of that system.

(7) "Source code" means a program or set of programs, readable and maintainable by humans, translated or interpreted into a form that the electronic recording delivery system can execute.

(8) "System certification" means the issuance of a confirmation letter regarding a county's electronic recording delivery system by the Attorney General.

(Added by Stats. 2004, Ch. 621, Sec. 2. Effective September 21, 2004.)

**27391.**

(a) Upon approval by resolution of the board of supervisors and system certification by the Attorney General, a county recorder may establish an electronic recording delivery system.

(b) Upon system certification, a county recorder may enter into a contract with a title insurer, as defined in Section 12340.4 of the Insurance Code, underwritten title company, as defined in Section 12340.5 of the Insurance Code, institutional lender, as defined in paragraph (1), (2), or (4) of subdivision (j) of Section 50003 of the Financial Code, or an entity of local, state, or federal government for the delivery for recording, and return to the party requesting recording, of a digitized electronic record that is an instrument affecting a right, title, or interest in real property. The contract may provide for the delivery of documents by an agent. However, the agent shall not be a vendor of electronic recording delivery systems.

(c) A county recorder may refuse to enter into a contract with any party or may terminate or suspend access to a system for any good faith reason, including, but not limited to, a determination by the county recorder that termination or suspension is necessary to protect the public interest, to protect the integrity of public records, or to protect homeowners from financial harm, or if the volume or quality of instruments submitted by the requester is not sufficient to warrant electronic recordation. A county recorder may also terminate or suspend access to a system if a party commits a substantive breach of the contract, the requirements of this article, or the regulations adopted pursuant to this article.

(d) Notwithstanding Section 27321, a county recorder may require a party electronically submitting records to mail a copy of the recorded electronic document to the address specified in the instructions for mailing upon completion of recording.

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 6. Electronic Recording Delivery Act of 2004 [27390 - 27399]** ( Article 6 added by Stats. 2004, Ch. 621, Sec. 2. )

(e) When a signature is required to be accompanied by a notary's seal or stamp, that requirement is satisfied if the electronic signature of the notary contains all of the following:

- (1) The name of the notary.
- (2) The words "Notary Public."
- (3) The name of the county where the bond and oath of office of the notary are filed.
- (4) The sequential identification number assigned to the notary, if any.
- (5) The sequential identification number assigned to the manufacturer or vendor of the notary's physical or electronic seal, if any.

(Added by Stats. 2004, Ch. 621, Sec. 2. Effective September 21, 2004.)

**27392.**

(a) No electronic recording delivery system may become operational without system certification by the Attorney General. The certification shall affirm that the proposed county system conforms to this article and any regulations adopted pursuant to this article, that security testing has confirmed that the system is secure and that the proposed operating procedures are sufficient to assure the continuing security and lawful operation of that system. The certification may include any agreements between the county recorder and the Attorney General as to the operation of the system, including, but not limited to, the nature and frequency of computer security audits. Certification may be withdrawn for good cause.

(b) The Attorney General shall approve software and other services for electronic recording delivery systems pursuant to regulations adopted as described in paragraph (7) of subdivision (b) of Section 27393.

(Added by Stats. 2004, Ch. 621, Sec. 2. Effective September 21, 2004.)

**27393.**

(a) The Attorney General shall, in consultation with interested parties, adopt regulations for the review, approval, and oversight of electronic recording delivery systems. Regulations shall be adopted pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3). The regulations shall comply with Section 12168.7.

(b) The regulations adopted pursuant to subdivision (a) may include, but need not be limited to, all of the following:

- (1) Establishment of baseline technological and procedural specifications for electronic recording delivery systems.
- (2) Requirements for security, capacity, reliability, and uniformity.
- (3) Requirements as to the nature and frequency of computer security audits.
- (4) A statement of a detailed and uniform definition of the term "source code" consistent with paragraph (7) of subdivision (b) of Section 27390, and as used in this article, and applicable to each county's electronic recording delivery system.
- (5) Requirements for placement of a copy of the operating system, source code, compilers, and all related software associated with each county's electronic recording delivery system in an approved escrow facility prior to that system's first use.
- (6) Requirements to ensure that substantive modifications to an operating system, compilers, related software, or source code are approved by the Attorney General.

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 6. Electronic Recording Delivery Act of 2004 [27390 - 27399]** ( Article 6 added by Stats. 2004, Ch. 621, Sec. 2. )

(7) Procedures for initial certification of vendors offering software and other services to counties for electronic recording delivery systems.

(8) Requirements for system certification and for oversight of approved systems.

(9) Requirements for fingerprinting and criminal records checks required by Section 27395, including a list of employment positions or classifications subject to criminal records checks under subdivision (f) of that section.

(10) Requirements for uniform index information that shall be included in every digitized or digital electronic record.

(11) Requirements for protecting proprietary information accessed pursuant to subdivision (e) of Section 27394 from public disclosure.

(12) Requirements for certification under Section 27397.5.

(c) The Attorney General may promulgate any other regulations necessary to fulfill his or her obligations under this article.

(d) An electronic recording delivery system shall be subject to local inspection and review by the Attorney General. The Attorney General shall furnish a statement of any relevant findings associated with a local inspection of an electronic recording delivery system, to the county recorder and the district attorney of the affected county, and to all technology vendors associated with that system.

(Amended by Stats. 2005, Ch. 22, Sec. 87. Effective January 1, 2006.)

**27394.**

(a) To be eligible to establish an electronic recording delivery system, a county recorder shall contract with, and obtain a report from, a computer security auditor selected from a list of computer security auditors approved by the Attorney General.

(b) The Attorney General shall approve computer security auditors on the basis of significant experience in the evaluation and analysis of Internet security design, the conduct of security testing procedures, and specific experience performing Internet penetration studies. The Attorney General shall complete the approval of security auditors within 90 days of a request from a county recorder. The list shall be a public record.

(c) An electronic recording delivery system shall be audited, at least once during the first year of operation and periodically thereafter, as set forth in regulation and in the system certification, by a computer security auditor. The computer security auditor shall conduct security testing of the electronic recording delivery system. The reports of the computer security auditor shall include, but not be limited to, all of the following considerations:

(1) Safety and security of the system, including the vulnerability of the electronic recording delivery system to fraud or penetration.

(2) Results of testing of the system's protections against fraud or intrusion, including security testing and penetration studies.

(3) Recommendations for any additional precautions needed to ensure that the system is secure.

(d) Upon completion, the reports and any response to any recommendations shall be transmitted to the board of supervisors, the county recorder, the county district attorney, and the Attorney General. These reports shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(e) A computer security auditor shall have access to any aspect of an electronic recording delivery system, in any form requested. Computer security auditor access shall include, but not be limited to, permission for a thorough examination of source code and the associated approved escrow facility, and necessary authorization and assistance for a penetration study of that system.

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 6. Electronic Recording Delivery Act of 2004 [27390 - 27399]** ( Article 6 added by Stats. 2004, Ch. 621, Sec. 2. )

(f) If the county recorder, a computer security auditor, a district attorney for a county participating in the electronic recording delivery system, or the Attorney General reasonably believes that an electronic recording delivery system is vulnerable to fraud or intrusion, the county recorder, the board of supervisors, the district attorney, and the Attorney General shall be immediately notified. The county recorder shall immediately take the necessary steps to guard against any compromise of the electronic recording delivery system, including, if necessary, the suspension of an authorized submitter or of the electronic recording delivery system.

(Added by Stats. 2004, Ch. 621, Sec. 2. Effective September 21, 2004.)

**27395.**

(a) No person shall be a computer security auditor or be granted secure access to an electronic recording delivery system if he or she has been convicted of a felony, has been convicted of a misdemeanor related to theft, fraud, or a crime of moral turpitude, or if he or she has pending criminal charges for any of these crimes. A plea of guilty or no contest, a verdict resulting in conviction, or the forfeiture of bail, shall be a conviction within the meaning of this section, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(b) All persons entrusted with secure access to an electronic recording delivery system shall submit fingerprints to the Attorney General for a criminal records check according to regulations adopted pursuant to Section 27393.

(c) (1) The Attorney General shall submit to the Department of Justice the fingerprint images and related information of persons with secure access to the electronic recording delivery system and computer security auditors for the purpose of obtaining information as to the existence and nature of a record of state or federal convictions and arrests for which the Department of Justice establishes that the applicant was released on bail or on his or her own recognizance pending trial.

(2) The Department of Justice shall respond to the Attorney General for criminal offender record information requests submitted pursuant to this section, with information as delineated in subdivision (l) of Section 11105 of the Penal Code.

(3) The Department of Justice shall forward requests from the Attorney General to the Federal Bureau of Investigation for federal summary criminal history information pursuant to this section.

(4) The Attorney General shall review and compile the information from the Department of Justice and the Federal Bureau of Investigation to determine whether a person is eligible to access an electronic recording delivery system pursuant to this article.

(5) The Attorney General shall request subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for all persons with secure access to the electronic recording delivery system and all computer security auditors.

(d) The Attorney General shall deliver written notification of an individual's ineligibility for access to an electronic recording delivery system to the individual, his or her known employer, the computer security auditor, and the county recorder.

(e) The Department of Justice shall charge a fee sufficient to cover the cost of processing a state or federal criminal offender record information request and any other costs incurred pursuant to this section.

(f) The Attorney General shall define "secure access" by regulation and by agreement with the county recorder in the system certification.

(Amended by Stats. 2005, Ch. 520, Sec. 1. Effective January 1, 2006.)

**27396.**

(a) The Attorney General shall monitor the security of electronic recording delivery systems statewide, in close cooperation with county recorders and public prosecutors. In the event of an emergency involving multiple fraudulent transactions linked to one county's use of an electronic recording delivery system, the Attorney General may order the suspension of electronic recording

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 6. Electronic Recording Delivery Act of 2004 [27390 - 27399]** ( Article 6 added by Stats. 2004, Ch. 621, Sec. 2. )

delivery systems in any county or in multiple counties, if necessary to protect the security of the system, for a period of up to seven court days. The Attorney General may seek an order from the superior court if it is necessary to extend this order.

(b) (1) The Attorney General, a district attorney, or a city prosecutor may bring an action in the name of the people of the state seeking declaratory or injunctive relief, restitution for damages or economic loss, rescission, or other equitable relief pertaining to any alleged violation of this article or regulations adopted pursuant to this article. Injunctive relief may include, but is not limited to, an order suspending a party from participation in the electronic recording delivery system, on a temporary or permanent basis.

(2) Nothing in this subdivision shall be construed to prevent the Attorney General, a district attorney, or a city prosecutor from seeking legal or equitable relief under any other provision of law.

(Added by Stats. 2004, Ch. 621, Sec. 2. Effective September 21, 2004.)

**27397.**

(a) A county establishing an electronic recording delivery system under this article shall pay for the direct cost of regulation and oversight by the Attorney General.

(b) The Attorney General may charge a fee directly to a vendor seeking approval of software and other services as part of an electronic recording delivery system. The fee shall not exceed the reasonable costs of approving software or other services for vendors.

(c) In order to pay costs under this section, a county may do any of the following:

(1) Impose a fee in an amount up to and including one dollar (\$1) for each instrument that is recorded by the county. This fee may, at the county's discretion, be limited to instruments that are recorded pursuant to the electronic recording delivery system.

(2) Impose a fee upon any vendor seeking approval of software and other services as part of an electronic recording delivery system.

(3) Impose a fee upon any person seeking to contract as an authorized submitter.

(d) The total fees assessed by a county recorder pursuant to this section may not exceed the reasonable total costs of the electronic recording delivery system, the review and approval of vendors and potential authorized submitters, security testing as required by this article and the regulations of the Attorney General, and reimbursement to the Attorney General for regulation and oversight of the electronic recording delivery system.

(e) Fees paid to the Attorney General pursuant to subdivisions (a) and (b) shall be deposited in the Electronic Recording Authorization Fund which is hereby created in the State Treasury, and, notwithstanding Section 13340, is continuously appropriated, without regard to fiscal years, to the Attorney General for the costs described in those subdivisions. Moneys deposited in the Electronic Recording Authorization Account prior to the effective date of the amendments to this subdivision made during the 2015 Regular Session shall be immediately transferred to the Electronic Recording Authorization Fund.

(Amended by Stats. 2015, Ch. 25, Sec. 35. Effective June 24, 2015.)

**27397.5.**

(a) A county recorder may include in the county's electronic recording delivery system a secure method for accepting for recording a digital or digitized electronic record that is an instrument of reconveyance, substitution of trustee, or assignment of deed of trust.

(b) A county recorder may contract with a title insurer, as defined in Section 12340.4 of the Insurance Code, underwritten title company, as defined in Section 12340.5 of the Insurance Code, an entity of state, local, or federal government, or an institutional

**GOVERNMENT CODE - GOV****TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )**DIVISION 2. OFFICERS [24000 - 28085]** ( Division 2 added by Stats. 1947, Ch. 424. )**PART 3. OTHER OFFICERS [26500 - 27758]** ( Part 3 added by Stats. 1947, Ch. 424. )**CHAPTER 6. Recorder [27201 - 27399]** ( Chapter 6 added by Stats. 1947, Ch. 424. )**ARTICLE 6. Electronic Recording Delivery Act of 2004 [27390 - 27399]** ( Article 6 added by Stats. 2004, Ch. 621, Sec. 2. )

lender, as defined in Section 50003 of the Financial Code, or their authorized agents, to be an authorized submitter of the documents specified in subdivision (a).

(c) With respect to the electronic submission of the records described in subdivision (a), the requirements that an authorized submitter be subject to a security audit under Section 27394 and a criminal records check under Section 27395 shall not apply where the certification requirements of subdivision (d) have been met.

(d) (1) In order for subdivision (c) to apply, the county recorder and the Attorney General shall certify that the method of submission allowed under the system will not permit an authorized submitter or its employees and agents, or any third party, to modify, manipulate, insert, or delete information in the public record, maintained by the county recorder, or information in electronic records submitted pursuant to subdivision (b) of Section 27391.

(2) Certification under this section may be withdrawn by either the county recorder or the Attorney General at any time either determines that the requirements of this subdivision are not met.

(e) For purposes of this section, an agent of an authorized submitter shall not include a vendor of electronic recording delivery systems.

*(Added by Stats. 2004, Ch. 621, Sec. 2. Effective September 21, 2004.)*

**27398.**

(a) The Attorney General shall conduct an evaluation of electronic recording delivery systems authorized by this article, and report to both houses of the Legislature on or before June 30, 2009.

(b) It is the intent of the Legislature that the evaluation include an analysis of costs, cost savings, security and real estate fraud prevention, and recommendations as to improvements and possible expansion of the provisions of this article.

(c) The evaluation shall also include a study of the feasibility of expanding the provisions of this article to cover the delivery, recording, and return of other electronic records.

*(Added by Stats. 2004, Ch. 621, Sec. 2. Effective September 21, 2004.)*

**27399.**

(a) Nothing in this article shall be construed to authorize any state agency to administer any of the processes or procedures relating to the business of the county recorders of the state in any manner not otherwise specifically set forth in this article.

(b) The authority granted in this article is in addition to any other authority or obligation under state or federal law.

(c) Nothing in this article shall be construed to repeal or affect Section 27279, 27279.1, 27279.2, 27297.6, 27387.1, or 27399.7, or the authority of the Counties of Orange and San Bernardino to act under those provisions.

*(Added by Stats. 2004, Ch. 621, Sec. 2. Effective September 21, 2004.)*