

Frequently Asked Questions

Concerning the Affordable Housing Recording Fee

New legislation passed in California establishing permanent, ongoing sources of funding dedicated to affordable housing development. The new law imposes a fee of \$75 to be paid at the time of the recording of every real estate instrument, paper or notice required or permitted by law to be recorded, per each single transaction per single parcel of real property; not to exceed \$225. The new law requires the county recorder to send revenues from this fee quarterly, after deduction of any actual and necessary administrative costs incurred by the county recorder, to the Controller for deposit in the newly formed Building Homes and Jobs Fund.

Commencing January 1, 2018, in addition to any other recording fees, a \$75 assessment shall be charged at the time of recording of every real estate instrument; which is described in the law as including but not limited to: 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.

Exceptions

The fee will not be imposed on any real estate instrument, paper or notice recorded in connection with a transfer subject to documentary transfer tax or in connection with a transfer of residential real property intended to be occupied by the owner. In other words, the documents recorded in connection with a sale transaction subject to documentary transfer tax are not subject to the \$75 assessment. In addition, a transfer NOT subject to transfer tax where in the grantee will occupy the property as their residence is also not subject to the \$75 assessment.

Q: What is the new the new Affordable Housing Recording Fee?

A: The new fee is an additional charge passed by the legislature and signed by the governor to fund Affordable Housing. The fee is assessed at the time documents are recorded into the public record with the county recorder's office.

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

A: No, the new Recording Fee is charged in addition to previous recording charges collected by county recorders.

Q: When does the new recording fee become due?

A: The recording fee becomes due at the time an instrument is recorded with the county recorder's office that is not otherwise exempt.

Q: Is the Affordable Housing Recording Fee charged on all documents presented for recording?

A: No, the Affordable Housing Recording Fee is charged on real estate instruments, papers or notices permitted by law to be recorded.

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

A: The new legislation defines this as a document relating to real property and includes the following as examples: 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.

Q: Is there a maximum aggregate charge per transaction?

A: Yes, the maximum aggregate charge for real estate instruments recorded in a single transaction is \$225.00.

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Q&A



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Q: How will a county recorder determine the maximum has been paid, such that additional instruments recorded in connection with a single transaction are not charged an additional recording fee?

A: The individual or entity recording documents after the maximum Affordable Housing Recording Fee has been met will have to indicate by stamp physically placed on the document declaring the maximum fee has been met. **Example:**

Recorded at the Request of: Chicago Title
Exempt from fee per GC 27388.1 (a) (1); fee cap of \$225 reached

Q: Are any real estate instruments exempt from the Affordable Housing Recording Fee?

A: Yes, the following real estate instruments, papers or notices are exempt from the additional Affordable Housing Recording Fee:

- a. Those recorded in connection with a transfer subject to a documentary transfer tax; or
- b. Those recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier.

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

A: Recorders have currently determined “In connection with” will be interpreted to mean documents involving the same parties and/or same property that are recorded concurrently. Thus, documents recorded before or after, and not concurrently, will not benefit from an “in connection with” exemption and will be charged the \$75 fee, each to the \$225 concurrently recorded cap, unless otherwise exempt.

Q: If a title company is recording a Deed of Trust and Assignment of Rents subject to the new Recording Fee charge, will the charge be \$75 per document title?

A. Documents with multiple titles will be charged per title.

Example 1: Substitution of Trustee and Full Reconveyance.

The charge would be \$75 x 2 titles = \$150.

Example 2: Assignment, Substitution of Trustee, Reconveyance Agreement (4 titles) would be charged the maximum \$225.

Q: What real estate instruments, papers or notices 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 the buyer declares on the Preliminary Change of Ownership (PCOR) they intend to occupy the subject property.

Note: An entity such as a trust, partnership, corporation or limited liability company are not eligible to sign such a declaration and therefore their transfer, not subject to documentary transfer tax will not be exempt from charge for the Affordable Housing Recording Fee.

However, a transaction involving a deed out of a trust would be considered exempt, if the grantees are owner occupiers.

Q: For a 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 concurrently with the document transferring a residential dwelling to an owner-occupier?

A: Yes, “in connection with” will be interpreted to mean documents involving the same parties and/or same property that are recorded concurrently. Thus, documents recorded before or after, and not concurrently, will not benefit from an “in connection with” exemption and will be charged the \$75 fee, each to the \$225 concurrently recorded cap, unless otherwise exempt.

All documents recorded will have to be stamped indicating they are part of an exempt transaction. **Example:**

Recorded at the Request of: Chicago Title
Exempt from fee per GC 27388.1 (a) (2); recorded concurrently in connection with a transfer of real property that is a residential dwelling to an owner-occupier

Q: If recording a subdivision map describing multiple lots in a subdivision, is an Affordable Housing Recording Fee due equal to (a) the number of lots in the subdivision times \$75, limited by the maximum assessment or (b) the number of lots in the subdivision times \$75?

A: One \$75 fee would be charged for a single transaction regardless of the number of parcels.

Q: If, in addition to a subdivision map, a person simultaneously presents covenants conditions and restrictions (CCRs) on the same property, is an additional Affordable Housing Recording Fee due equal to the number of lots in the subdivision times \$75, limited by the Recording Fee maximum?

A: An additional \$75 Affordable Housing Recording Fee would be due to record the CCRs.

Q: Are documents re-recorded for reasons such as correcting a name or attaching a legal description subject to an Affordable Housing Recording Fee charge?

A: No, previously recorded documents being re-recorded to correct a previous omission or error are not subject to an Affordable Housing Recording Fee charge.

To learn more about the new regulation, please visit:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?_bill_id=2017201805B2