



Bill Analysis

Author: Committee on Budget Bill Number: AB 110

Subject: Building Homes & Jobs Act Additional \$75 Real Estate Transaction Recording Fee/State Agencies Exempt from Additional \$75 Fee, SB 2, Chapter 17-364, Clean-Up

Summary

Among other items, this bill would clarify that the additional recording fees, enacted under SB 2, are not applicable to federal, state, or local government's recordings.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

Reason for the Bill

The reason for the bill is to clarify that the additional recording fees, enacted under SB 2, are not assessed on recording documents issued by federal, state, or local governmental agencies.

Effective/Operative Date

This bill, providing for appropriations related to the Budget Bill and identified as a bill related to the budget in the Budget Bill, would be effective immediately upon enactment and operative for any specified recording on or after January 1, 2018.

State Law

Current law¹ imposes a fee, except as provided, of \$75 to be paid at the time of the recording of specified documents, up to a maximum of \$225.

Government Code (Govt. Code) section 6103(a) provides in part that: (a) Neither the state nor any county, city, district, or other political subdivision, nor any public officer or body, acting in his or her official capacity on behalf of the state, or any county, city, district, or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, for the performance of any official service. Based on Govt. Code section 6103, the Franchise Tax Board (FTB) does not pay a fee to counties to record in-state addressed tax liens.

¹ SB 2 (Atkins, Chapter 364, Statutes of 2017).

However, Govt. Code section 6103.8 provides an exception to the general rule that the government does not pay fees for services rendered by government, including services by county governments. Subdivision (b) of Govt. Code section 6103.8 provides that the recording fee for state tax lien releases is six (\$6) dollars. Subdivision (g) of Govt. Code section 6103.8 authorizes additional fees for state income tax liens and releases that are recorded with out-of-state addresses.²

Govt. Code section 6103.8(g) expressly provides that for liens and lien releases with out-of-state addresses, the fees are as permitted by Sections 27361,³ 27361.2,⁴ 27361.4,⁵ and 27361.8.⁶

This Bill

This bill, among other items, states as declaratory of existing law that the fee shall not be imposed on any real estate instrument, paper or notice executed or recorded by the State or any county municipality, or other political subdivision of the State, on or after January 1, 2018.

The bill also adds to the exemptions from the fee that as of January 1, 2018, 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, is exempt from the fee.

Program Background

The FTB and other state taxing agencies are continuing to work with the California Government Operations Agency to ensure only authorized recording fees, as provided under the Govt. Code, are assessed upon the recording of state tax lien releases.

Legislative History

SB 2 (Atkins, Chapter 364, Statutes of 2017) created the Building Homes and Jobs Act, which adds specified fees to recording of specified documents to fund specified projects.

² Govt. Code section 7174(d) provides "If the notice of state tax lien recorded in any county reflects an out-of-state address as the last known address of the taxpayer, the agency shall pay the fees required by Sections 27361, 27361.2, 27361.4, and 27361.8." These are the identical Govt. Code section references found in Govt. Code section 6103.8(g).

³ Govt. Code section 27361 provides for \$10 for the first page and \$3 per page after the first; an additional \$1 per page fee for non-conformance to required recording format, and an additional \$3 per page for not conforming to formatting in Govt. Code 27361.5. These fees are deposited into the county general fund.

⁴ Govt. Code section 27361.2 provides an additional \$1 fee for indexing.

⁵ Govt. Code section 27361.4 provides an additional \$1 charge to support the county's cost of micrographics conversion and an additional fee of \$1 if the county requires indexing within two business days.

⁶ Govt. Code section 27361.8 provides for an additional fee of \$1 per group of ten names for additional indexing.

Other States' Information

Since this applies to specific fees administered by counties in this State, a review of other states' income tax laws would not be relevant.

Fiscal Impact

This bill would not significantly impact the department's costs.

Economic Impact

This bill would not impact the state's income tax revenue.

Appointments

None.

Support/Opposition

Support: None Provided.

Opposition: None Provided.

Votes

Location	Date	Yes Votes	No Votes
Concurrence	March 8, 2018	67	8
Senate Floor	March 8, 2018	36	0
Assembly Floor	May 18, 2017	45	25

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