

2010 YEAR IN REVIEW

Winter 2011

A User's Guide to Some of the Important 2010 California Statutes Relating to the Title Insurance Industry

Editor's Note

Greetings,

The following is a summary of some of the 2010 California statutes applicable to the title insurance industry. The CLTA 2010 summary of legislation was utilized to identify such statutes, but the summaries consist of the wording of the statutes themselves, as well as the Legislative Counsel's summary in some instances. The summary is organized by topic (i.e. real property, liens, taxation, etc.). Please refer to the adjacent tables for indexes by code and area of law.

The format for each summary is as follows:

(1) **Topic of Interest:**

general areas of real estate law to which the statute applies; the citation of the present statute as it applies to the applicable code; and the sections it changes or creates.

(2) **Synopsis:** brief summary recapping what the bill accomplishes.

(3) **Existing Law:** the provisions which currently exist in the code or law which the statute will change.

(4) **New Bill:** what the present bill changes or creates.

(5) **Impact:** possible impact of the relevant changes (if applicable).

As always, we welcome any comments or suggestions. Please email me at Tesraillian@Garrett-Tully.com with any comments or suggestions, and/or if you would like to receive our regular emails, mailings and newsletters.

Warm Regards,
Tina Esraillian

- About the Firm -

Garrett & Tully, P.C. is a law firm with offices in Pasadena and Westlake Village, California, serving clients throughout the state. Combined, our attorneys have more than 100 years of experience in the title and escrow fields. We represent title and escrow companies, and title insurers and their insureds, in a broad range of real estate and business disputes. Our attorneys have considerable experience handling claims such as escrow and title negligence, defalcation, mechanic's liens, title defects, easements, claims between escrows, subescrow liability, class actions, lien priority, and defending title insurers in coverage and bad faith suits. The firm also has a significant practice representing clients in major accounting and securities suits, and defends employers in employment disputes. The firm handles civil appeals in all areas of the law.

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Adverse Possession

Applies to: Adverse Possession

Chapter 55 (AB 1684 - Jeffries) as related to Code of Civil Procedure § 325.

Synopsis:

Proof of payment of taxes for properties under an adverse possession action must be shown through the records of the county tax assessor.

Existing Law:

A person claiming title of a real property under adverse possession must show that the land has been occupied for a period of 5 continuous years. In addition, the person must show that all taxes have been paid on the property by either themselves, their predecessors, or their grantors.

New Bill:

Proof of the payment of taxes must be shown through the certified records of the county tax assessor.

Impact:

In order to prevail under adverse possession, a claimant must also show that they have paid the property taxes through certified records from the county tax assessor.

Deeds

Applies to: Grant Deed Copy Services

Chapter 533 (AB 1373 - Lieu) as it relates to Business and Professions Code § 17537.10.

Synopsis:

The bill makes it illegal for grant deed copying service companies to make untrue or misleading statements by mailed advertisements for obtaining copies of property owner's title records for a fee.

Existing Law:

The existing law makes it a crime to violate certain advertising related practices such as untrue or misleading statements dealing with grant deed copying services through advertisements by mail. Property owners typically need copies of title documents for loan modifications and foreclosures. A grant deed service is a service that is offered by a person or business through mailed advertisements to a property owner to obtain a copy of their property records for a fee.

New Bill:

The new bill requires persons, firms, corporations, associations, or any other business entities to comply with advertising practices for grant deed copy services for compensation mailed to property owners. A disclosure stating that copies of property records can be obtained from the county recorder must be included in the advertisement. A disclosure must also be provided when a company appears to be affiliated with a government entity particularly if a governmental seal, emblem or other symbol is shown. In addition, a disclosure is required if the company's name includes words such as "title" or "grant deed" along with a word such as agency or bureau which suggests a relationship with a government agency. Further, a disclosure is required if the envelope is similar to the type used by government agencies. The envelope must include a notice that the contents of the envelope are not approved or authorized by a government agency.

Impact:

Grant deed copy service companies must provide disclosures with their mailed solicitations. Failure to do so may result in criminal penalties.

Disclosures

Applies to: Transferrers of Real Property, Carbon Monoxide Poisoning Prevention Act of 2010. Chapter 19 (SB 183 - Lowenthal) as it relates to Civil Code § 1102.6 and 1102.6(d) and Health and Safety Code § 17926, 17926.2, and 13260.

Synopsis:

This act requires disclosure forms to include a section on carbon monoxide stating that the installation of carbon monoxide devices are not a precondition to sale or transfer. The act also enacts the Carbon Monoxide Poisoning Act of 2010.

Existing Law:

Transferrers of real property containing 1 - 4 units, mobile homes, and manufactured homes must include disclosures that describe the characteristics of the property. In addition, there must be a disclosure for compliance for smoke detector and water heater safety requirements.

The existing law also provides for regulations adopted by the State Fire Marshall for standards for safety and installation of burglar bars, emergency release mechanisms, smoke detectors, and portable fire extinguishers. Currently, a smoke detector must be approved by and listed with the State Fire Marshall and installed in the dwelling. Violations of the law are considered misdemeanors.

New Bill:

The new bill requires a certification in the form of a disclosure from the seller that the smoke detectors and water heaters meet the statutory requirements. The disclosure requires that all mention of smoke detectors and water heaters in previous sections be removed and placed in a single section. Additionally, the disclosure that the installation of carbon monoxide detection devices is not a precondition to the sale.

The Carbon Monoxide Poisoning Prevention Act requires certification of carbon monoxide detection devices by the State Fire Marshall. The Act also requires instructions for their use in dwellings. The State Fire Marshall must charge a fee to the manufacturer of the carbon monoxide detection device to recoup the costs for certification and administration. Sale, marketing, and distribution of the devices is prohibited unless they have been listed and their instructions for use approved by the State Fire Marshall. A carbon monoxide detection device is to be installed in any dwelling used for human occupation. A violation of this act carries a \$200 maximum fine for each offense with a 30 day notice to the property owner before the fine is actually imposed.

If there is a failure to comply with the requirements the transfer of title is still valid. However, the only remedy is for actual damages of no more than \$100. This does not include any court costs or attorney's fees.

The act also requires a property owner who rents a human occupied dwelling to include and maintain carbon monoxide detection devices. It allows for the entrance of the property owner into the dwelling for the purposes of installing, maintaining, or repairing the devices. Lastly, the act allows the Department of Housing and Community Development and the State Fire Marshall to exercise discretion in enforcing the act if there are not enough certified devices. This discretion applies if it requires notifying the public of the lack of suitable devices.

Impact:

Sellers must revise their disclosures to comply with the provisions of the new law.

Foreclosures

Applies to: Notice of Sale

Chapter 397 (SB 1221 - Calderon) as it relates to Civil Code § 2924 and 2924c.

Synopsis:

The new bill permits a mortgagee, trustee, or other authorized person to file a notice of sale up to 5 days before the 3 month period ends. Before this law was enacted, the minimum period before a notice of sale could be filed was 3 months. The date of sale must be earlier than 3 months and 20 days after the notice of default is filed.

Existing Law:

The current law requires that a trustee, mortgagee, or beneficiary of a mortgage in breach, record a notice of default with the county recorder and mail the notice to the mortgagor or trustor. 3 months from the filing of the notice, the person authorized to take the sale must give notice of the sale. The notice of the sale must include the time and place of the sale. This law also applies when there is a transfer of an interest.

New Bill:

The notice of sale may be filed within 5 days before the 3 month period ends. The date of the sale must be at least 3 months and 20 days after the notice of default is filed. The previous minimum period before a notice of sale could be filed was 3 months.

Impact:

The new bill allows for the earlier filing of a notice of sale.

Foreclosures

Applies to: Foreclosure consultants that arrange loan audits.

Chapter 596 (AB 2325 - Liu) as it relates to Civil Code § 2945.1.

Synopsis:

Requires foreclosure consultants to register with the Department of Justice if they arrange for audits of loans secured by a home in foreclosure.

Existing Law:

Under the existing law, a foreclosure consultant is someone who solicits homeowners for performance of services relating to foreclosures. These services include debt, budget, financial counseling, giving advice, explanation, or instruction to a homeowner regarding their foreclosure.

The existing law requires foreclosure consultants to register with the Department of Justice. It prohibits foreclosure consultants from offering services until they are properly registered. The existing law provides for penalties for foreclosure consultants that commit prohibited acts such as taking payment for services before the services are fully completed.

New Bill:

The new bill requires foreclosure consultants who provide audits of obligations that are secured by a lien on a home in foreclosure to register with the Department of Justice. The new bill expands the scope of people considered foreclosure consultants. Violation of this bill results in a criminal penalty.

Impact:

People who perform audits or arrange audits of obligations must also register with the Department of Justice. Failure to do so is a crime.

Foreclosures

*Applies to: Postponement of sale date by public entity and regulatory agreements.
Chapter 597 (AB 2347 - Feuer) as it relates to Civil Code § 2924f.*

Synopsis:

Until 2013, public entities that are a party to regulatory agreements may postpone the date of the sale by 60 days or less if the property has 5 or more multi-family units.

Existing Law:

Under the existing law, a lender of a loan in default must file a notice of default in a nonjudicial foreclosure before it conducts a sale of the property. A notice of sale must also be given before the sale takes place.

New Bill:

Until 2013, the new bill adds an exception for public entities that are a party to a regulatory agreement or recorded deed restriction on the property. A regulatory agreement is defined as a valid agreement with a public entity which provided government financing. This applies to properties that contain 5 or more multi-family units. By providing written notice to the trustee, the public entity may postpone the sale date by 60 days. In addition, only one public entity may postpone the sale if there are multiple public entities involved. The postponement can only be done once. The time frame for postponement is 180 days after the filing of the notice of default.

Impact:

The new bill allows public entities that are party to a regulatory agreement or recorded deed restriction to a property to delay nonjudicial foreclosures.

Foreclosures

*Applies to: Deficiency Judgments
Chapter 701 (SB 931 - Ducheny) as it relates to Code of Civil Procedure § 580e.*

Synopsis:

The holder of the first deed of trust or mortgage must accept the proceeds of a sale when it provides written consent to a sale for less than the amount of the loan. Under these circumstances a deficiency judgment is prohibited. If the trustor or mortgagor commits fraud or waste, the holder of the first deed of trust or mortgage may seek damages. These provisions do not apply to mortgagors or trustors who are corporations or political subdivisions of the state.

Existing Law:

Under existing law, deficiency judgments are authorized for balances due on a deed of trust or mortgage with real property as security. A deficiency judgment is not allowed where the mortgagee or trustee has sold the real property under its powers of sale granted by the mortgage or deed of trust.

New Bill:

The new bill adds an additional provision stating that a deficiency judgment is not allowed when the trustor or mortgagor sells a dwelling of four units or less for an amount less than the obligation of the loan with the written consent of the holder of the first deed of trust or mortgage. The holder of the first deed of trust or mortgage must accept the amount of the sale as a full discharge of the loan. Further, the holder of the first deed of trust or mortgage may seek damages under any existing rights or remedies if there is fraud or waste. If the trustor or mortgagor is a corporation or political subdivision of the state, these provisions do not apply.

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Impact:

The new bill expands restrictions for deficiency judgments in cases involving dwellings with 4 units or less.

Foreclosures

Applies to: Notices of Default

Chapter 133 (AB 2016 - Torres) as it relates to [Civil Code § 2924b](#).

Synopsis:

The new bill explains that a recorded request for a copy of a trustee's deed upon sale is only a copy and does not change any existing interests.

Existing Law:

Under the provisions of its governing documents, a common interest development is run by its association. The Davis-Stirling Common Interest Development Act provides provisions for common interest developments. Before a foreclosure sale of real property, a trustee or mortgagee must record a notice of default and post and public a notice of sale. An association may record only one request for the mortgagee or trustee to mail the association a copy of the deed upon sale.

New Bill:

The new bill states that the copy of the trustee's deed of sale in the request by an association is not a document that shows a transfer, encumbrance, or release of a transfer or encumbrance of an interest in the real property.

Impact:

The new bill provides clarification that the request by the association does not change any interests in the property.

Foreclosures

Applies to: Maintenance of Property

Chapter 527 (SB 1427 - Price) as it relates to [Civil Code § 2929.4](#) and [2929.45](#).

Synopsis:

Government entities must give property owners notice and an opportunity to correct a failure to maintain a vacant property before it can impose a fine. There is an exception if there is a public health or safety concern. Before a lien or assessment for costs for issues fixed by a government entity can be imposed, a public hearing must take place. Costs must be actual and reasonable.

Existing Law:

A property purchased at a foreclosure sale must be maintained even if it is vacant. Civil fines and penalties for the failure to maintain a property can reach up to \$1,000 per day. This law is effective until January 1, 2013.

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New Bill:

Before a government entity fines a property owner for failure to maintain a vacant property that was purchased through the foreclosure process, it must first give notice along with an opportunity to correct the violation. An exception for public health or safety applies. If the government entity has to take measures to correct problems, the costs must be reasonable. Lastly, no lien or assessment for those costs can be imposed on the property owner before the costs are adopted through a public hearing.

Impact:

The new bill provides additional protection to property owners because government entities must take additional steps before the entity may fine a property owner.

Foreclosures

Applies to: Unlawful Detainers

Chapter 641 (SB 1149 - Corbett) as it relates to Code of Civil Procedure § 1161.2 and 1166.

Adds and repeals § 1161(c).

Synopsis:

The new bill adds a special provision for rental dwellings purchased at a foreclosure sale which includes a 60 day waiting period for records to be released to third parties. Also, the period of the notice to quit for a rental unit that is foreclosed cannot exceed 30 days. A separate notice informing the tenant of their rights must be provided to tenants in a unit within one year of a foreclosure sale.

Existing Law:

Under existing law, a party or other specified persons to an unlawful detainer proceeding may access the case records at any time. If the person requesting the record is not specified under the code, they must wait 60 days after the filing of the complaint before receiving access to court records. Further, the landlord must provide additional notices which include deadlines to respond, how long the tenant can stay in the dwelling, and how to receive legal help.

New Bill:

The new bill adds foreclosure proceedings and other specified proceedings to the 60 day waiting period. In order for the third party to access the case records, the plaintiff must prevail against all of the defendants. In addition, the judgments against all of the defendants must be entered. If these conditions are not met the county court clerk will not release the records to third parties.

In addition, the new bill includes provisions that require written notice to quit to be given to a tenant of a foreclosed rental unit. The length of the notice to quit cannot exceed 30 days. The notice to quit must expire before the tenant can be removed.

A special notice is required for tenants in rental units that will be foreclosed within one year. The new bill provides provisions for the tenants' rights to be included in the notice. Tenants must be informed of deadlines to respond and of how long they may stay before they must move out. The notice also specifies where tenants may receive low cost or no cost legal services. The provisions for the additional notices expire on January 1, 2013.

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Impact:

Third parties to a foreclosure or unlawful detainer proceeding must wait 60 days before receiving access to the case records. The plaintiff must prevail against all defendants and judgments must be entered before the third party can access the records. Landlords must also provide additional notices to the tenants when the unlawful detainer action involves foreclosure.

Real Estate Agents and Brokers

Applies to: Advance Fees

Chapter 85 (AB 1762 - Hyashi) as it relates to [Business and Professions Code § 10026](#).

Synopsis:

The definition of 'advance fee' is modified to include services requiring a license. The definition applies to fees charged by a licensee. The new bill also provides for exemptions for advertising and commissions after a contract is fully performed.

Existing Law:

Under the existing law, the Real Estate Commissioner oversees the licensing of real estate brokers and salespersons. An 'advance fee' is defined as a fee that is charged by a licensee before completing all services that the licensee has contracted for.

New Bill:

The new bill redefines 'advance fee' to include services requiring a license. This applies to fees collected before the completion of a contract. The new bill exempts money from advertising from the definition of advance fees. It also exempts from the definition a contract for payment of a commission after the services have been completed.

Impact:

Real estate brokers and agents must be aware of the new definition of advance fee in order to be compliant with the new law.

Recording

Applies to: Notice of Recording

Chapter 44 (AB 2618 - Nestande) as it relates to [Government Code § 27927.7](#).

Synopsis:

The new bill allows the Board of Supervisors in all counties to adopt a resolution for the county recorder to notify parties executing a deed, quitclaim deed, or deed of trust.

Existing Law:

Under current law, the county recorder may notify the parties executing a deed, quitclaim deed, or deed of trust when the Los Angeles County Board of Supervisors and the Riverside County Board of Supervisors adopts a resolution for the notification.

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New Bill:

The new bill allows the Board of Supervisors in all counties of California to adopt this type of resolution.

Buying and Selling

Applies to: Offers to Purchase

Chapter 308 (SB 454 - Lowenthal) as it relates to Government Code § 65863.10, 65863.11, and 65863.13.

Synopsis:

Deletes the repeal of the existing law and changes the information required in an initial notice of a bona fide opportunity to submit an offer to purchase.

Existing Law:

The existing law expired on January 1, 2011. It required notices and provided provisions for procedural requirements on owners of government-subsidized rental dwellings. These related to whether the owner wanted to participate in government-subsidized housing programs. One of the provisions required the owner to give an initial notice of a bona fide opportunity to submit an offer to purchase the property to specified entities. The notice of a bona fide opportunity for an offer to purchase must include statements such as the level of affordability of the rentals, how many affordable rental units the owner will provide, and a financial report on the property.

New Bill:

The new bill removes the repeal and modifies the information required in an initial notice of a bona fide opportunity to submit an offer to purchase.

Loans

Applies to: Cal-Vet Home Loans

Chapter 542 (AB 2087 - Torres) as it relates to Military and Veterans Code § 987.53.

Synopsis:

The new bill adds 2 - 4 unit dwellings to the definition of 'home'.

Existing Law:

Under the CalVet Home Loan Program, 'home' is defined as real property with a dwelling or other buildings. The definition also includes condominiums and mobile homes.

New Bill:

The definition of 'home' now includes 2 - 4 unit dwellings.

Impact:

The new bill provides for the expansion on the definition of homes so that veterans may obtain loan benefits on dwellings with more units.

Insurance: Companies

Applies to: Market Conduct Examinations

Chapter 387 (AB 2404 - Hill) as it relates to Insurance Code § 481 and 730.

Synopsis:

If a market analysis shows that there have been no significant negative changes, the Insurance Commissioner has the discretion to postpone a Market Conduct Examination for up to 3 years.

Existing Law:

Under existing law, the Insurance Commissioner must conduct an examination of insurers admitted in California at least once every 5 years. The Insurance Commissioner considers numerous financial and market analysis reports as provided by the Examiner's Handbook or found in the Market Regulation Handbook.

New Bill:

If a market analysis shows that prior examinations show no significant negative findings, that an insurer is in the lowest quartile in the number of consumer complaints on a ratio basis, and there are no other significant issues, the Insurance Commissioner can postpone a Market Conduct Examination for up to 3 years.

Impact:

Insurers may be able to postpone their Market Conduct Examination for up to 8 years, which could provide savings on expenses related to carrying out the examination.

Judgments

Applies to: Enforcement, Transfer tax for documents

Chapter 680 (AB 2394 - Brownley) as it relates to Code of Civil Procedures § 262, 262.2, 262.4, 687.010, 699.060, 699.510, 699.520, 699.560, 701.030, 701.660, 706.026, 706.101, 712.020, 1993, and 263.

Synopsis:

The new bill allows for the electronic transmittal and receipt of specified writs relating to the enforcement of judgments. The new bill also requires additional information to be included on judgment writs, such as the type of legal entity the judgment debtor is and if the case is limited or unlimited. Lastly, the purchaser of real property with a tax levy must pay the documentary transfer tax.

1st Existing Law:

Under the current law, service of process and notices are required to be completed in writing. These documents include a writ or summons from judicial proceedings, from sheriffs or other officers. It also includes the execution and return of service of process and notices along with instructions from a judgment creditor to a levying officer.

New Bill:

The new act allows for the electronic transmittal and receipt of these documents that deal with the enforcement of judgments. It also provides provisions for the information that is to be included and redacted from the documents. The provisions would include safeguards for the electronic delivery of the documents.

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2nd Existing Law:

As it relates to the enforcement of a judgment, documents such as a writ of execution, possession, or sale includes written instructions that are to be given from a judgment creditor to a levying officer.

New Bill:

Under the new bill, the process must include additional information such as the type of legal entity of the judgment debtor if it is not a natural person. A statement that the case is limited or unlimited must also be included in any writ of execution, possession, or sale.

3rd Existing Law:

There are specified procedures for the sending and receiving of post judgment writs of executions. The levying officer must give the writ back to the court along with a report of the actions taken by the officer and a report of the money received and paid out.

New Bill:

The new bill allows electronic copies and electronic filing of writs of execution along with the required reports.

4th Existing Law:

Under the Documentary Transfer Tax Act, a tax can be levied by the county or city board of supervisors for specified documents relating to the transfer of real property. The levying officer that conducts the sale of real property must execute and deliver a deed of sale to the buyer and record a copy with the county recorder.

New Bill:

The new bill states that the purchaser of the real property with the tax levy will pay the documentary transfer tax.

Parks

*Applies to: Parks and Open Space Districts and Irrevocable Offers of Dedication
Chapter 59 (AB 1962 - Chesbro) as it relates to Public Resources Code § 5565.5.*

Synopsis:

The board of directors is allowed to use irrevocable offers of dedication when acquiring land to be used as a public park or other specified open space.

Existing Law:

A park and open space district may select, designate, and acquire land, or rights to land to be used for public parks and other public open spaces.

New Bill:

The new bill allows the board of directors for the park and open space district to use an irrevocable offer of dedication for acquiring land. This offer is recorded with the county recorder as a conveyance of real property. The board of directors may also terminate the offer of dedication and the rights to accept the offer.

Liens

Applies to: Municipal Utility Districts, Delinquencies

Chapter 485 (SB 1035 - Hancock) as it relates to Public Utilities Code § 12811.1.

Synopsis:

The new bill expands the powers of municipal utility districts and provides procedures to place liens on real property. These liens have the same effect, force, and priority of judgment liens. Water and sewer services are no longer exempt from these provisions.

Existing Law:

A municipal utility district under the Municipal Utility District Act may require an owner of real property to pay fees, tolls, rates, rentals, or other charges for utilities. The other charges are for utility services used by a lessee, tenant, or subtenant. If the charges are not paid, a lien will be placed on the property. This lien is the same as a judgment lien. Water, sewer, and electrical services to residential properties are exempt under the act.

New Bill:

The new bill provides an extension to January 1, 2016 for additional provisions and procedures that a municipal utility district can use for collecting delinquent fees. These procedures are the same as the ones for collecting property taxes. In addition, the municipal utility district can record a lien with the county recorder for delinquent fees, tolls, rates, rentals, or other charges.

This lien has the same effect and priority as a judgment lien. The new bill also removes the exemption for water and sewer services to residential properties. Only electrical services to residential properties are exempt. A municipal utility district must also reimburse the county for any reasonable expenses that apply to this collection method.

A report to the Assembly and Senate Committees on Judiciary must be given if a municipal utility district records a lien for water or sewer service on or before December 31, 2014. In addition, a report to the Assembly and Senate Committees on Local Government must be given on or before January 1, 2015.

Mechanics' Liens

Applies to: Mechanic's Liens

Chapter 697 (SB 189 - Lowenthal) as it relates to Business and Professions Code § 7034, 7071.5, 7071.10, 7159, 7159.1, 7159.5, 7159.14, 7164, 8513, and 17577.5. Civil Code §1917.166, 1917.615, 3059, 3060, 3319, 3320, 3321, 7100, 3084, 3252, 9560, 8000, 3081.1, and 3082. Code of Civil Procedure §86, 410.42, 708.760, 1203.61, 1281.5, and 1800. Education Code §17307.5 and 81133.5. Government Code §7480, 14975, 15820.105, 27287, 27361.9, 66499.2, and 66499.7. Health and Safety Code §5463, 16017.5, 19825, and 34218. Insurance Code §11751.82. Labor Code §218.5. Public Contract Code § 4107.7, 7103, 10222, 10822, 20104, 20134, 20461, 20496, 20682.5, 20688.4, 20813, 20815.3, 20991, 21061, 21071, 21081, 21091, 21101, 21111, 21121, 21131, 21141, 21151, 21161, 21171, 21181, 21196, 21212, 21231, 21241, 21251, 21261, 21271, 21311, 21321, 21331, 21341, 21351, 21361, 21371, 21381, 21391, 21401, 21411, 21421, 21431, 21441, 21451, 21461, 21491, 21501, 21511, 21521, 21531, 21541, 21572, 21581, 21591, 21601, 21622, and 21631. Streets and Highway Code §136.5.

Synopsis:

The terms for 'original contractor' and 'materialman' have been changed to 'direct contractor' and 'material supplier.' Many portions of the existing codes have been changed and most changes will take effect on July 1, 2012.

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Existing Law:

Mechanics, persons furnishing materials, artisans, and laborers may place a lien on a property on which they have worked under the California Constitution. The legislature must provide quick and efficient enforcement of these liens. The existing law provides provisions for mechanics' liens.

New Bill:

The new bill makes many changes to the mechanics' liens provisions. First, instead of 'original contractor' and 'materialman,' the terms 'direct contractor' and 'material supplier' are used. Second, a direct contractor and claimant must receive a copy of a notice of completion within 10 days. Third, the new bill provides separate provisions for improvements for private works and improvements for public works. Revisions were made for design professionals' liens, mechanics' liens, notices of cessation, payment bonds and retention payments.

The new bill includes changes from AB 2216 and AB 2419. These changes will require that AB2216 and AB 2419 be enacted. If an act was enacted during 2010 and takes effect on or before January 1, 2011, the provisions in the previous act will replace the ones in this act.

Most of the provisions are to take effect on July 1, 2012. Other provisions may be in effect sooner.

Several important changes include: separate indexes for preliminary notices filed with county recorders; release bonds for mechanics' liens are 125% of the lien; notices of completion must be recorded within 15 days of the date of completion; payment, notice and release forms have been modified; optional advances of funds by construction lenders and mandatory advances of funds by construction lenders have the same priority if the total amount of advances are lower than the original construction loan; there is a 20 day requirement for notice of pendency of action filings; if a mechanics' lien foreclosure is not brought to trial within 2 years of the commencement of a case, a court may dismiss the action; 30 days written notice is required by a construction lender after service of a bonded stop payment notice if the lender decides not to withhold funds for the claimant; surety bonds, irrevocable letters of credit, or escrow accounts may be required if a loan exceeds \$5,000,000.

Impact:

New changes in the terms may require changes to documents that reference the old terms.

Subdivisions

Applies to: Subdivision Map Act, Performance Securities

Chapter 174 (SB 1019 - Correa) as it relates to Government Code §66499.7.

Synopsis:

The new bill provides an extension until January 11, 2016 of the existing provisions for performance securities under the Subdivision Map Act. Performance securities include surety bonds, cash deposits, letters of credit, and escrow accounts.

Existing Law:

Performance securities are required by the Subdivision Map Act and local ordinances. The existing law contains procedures for local agencies for the complete or partial release of performance securities given by subdividers. The existing law expired on January 11, 2011.

New Bill:

The new bill extended the date of the repeal of the provisions for performance securities from January 11, 2011 to January 1, 2016.

Subdivisions

Applies to: Subdivision Map Act, Parcel Mergers, Renewable Energy

Chapter 492 (SB 1319 - Pavley) as it relates to Government Code §66499.12 and adds 66451.24.

Synopsis:

The Subdivision Map Act does not prohibit a landowner from requesting funds from the state to defray the costs of merging parcels when they are locating renewable energy facilities on the land.

Existing Law:

Under the Subdivision Map Act, local agencies may merge contiguous parcels and start proceedings for reversion to acreage.

New Bill:

A landowner, local agency, or renewable energy corporation may petition the state for financial assistance to cover the costs of merging parcels of land for constructing renewable energy facilities.

Taxation

Applies to: Income Tax Credit for Qualified Principal Residence

Chapter 12 (AB 183 - Caballero) as it relates to Revenue and Taxation Code §17059.1.

Synopsis:

The new bill extends the dates for credits to residences that have never been occupied and to first time home buyers from May 1, 2010 to August 1, 2011. The total amount of credits to be given is \$200,000,000.

Existing Law:

Under the current Personal and Income Tax Law, a tax credit is allowed for the lesser of 5% or \$10,000 of the purchase price of a qualified principal residence. This credit applies to purchases between March 1, 2009 and March 1, 2010.

New Bill:

The new bill allows tax credits to be applied for purchases made between May 1, 2010 and on or before December 31, 2010. It also includes purchases made on or after December 31, 2010 and before August 1, 2011. The credit is the lesser of 5% or \$10,000 for qualified principal residences. A request for certification must be made to the Franchise Tax Board stating that the residence has never been occupied and or that the taxpayer is a first time home buyer.

The total amount of credits is limited to \$200,000,000. For qualified principal residences that have never been occupied, the aggregate credit amount has been reduced by 70% of the credit amount given under each Franchise Tax Board certification. There is a reduction of 57% of the aggregate limit for each Franchise Tax Board certification for first time home buyers.

Taxation

Applies to: Property Taxes

Chapter 654 (SB 1491 - Commission on Revenue and Taxation) as it applies to Public Resources Code §42463. Revenue and Taxation Code §61, 63.1, 69.5, 218, 401.10, 1604, 4831, 5096, 41030, 41031, 41032, 41136.1, 41137, 41137.1, 41138, 41139, 41140, 41141, 41142, 45855, 45863, 45981, 45982. Revenue and Taxation Code §1624.3, 1636.2, and 1635.5 are repealed.

Synopsis:

The new bill provides for changes to taxation of real property including real property valuation, appeal of assessment and tax credits.

1st Existing Law:

Taxes on real property are limited to 1% of the assessor's valuation of the real property or the appraised value of the real property after purchase, construction, or change in ownership. Under existing law, real property has changed ownership after being leased for 35 years or more. All homes are presumed to be eligible for the homeowners' exemption except for manufactured homes and floating homes on leased land with renewal options of at least 35 years.

New Bill:

The new bill makes technical and nonsubstantive changes.

2nd Existing Law:

Excluded from change in ownership are property transfers of principal residences and the first \$1,000,000 of real property between parents and children. Transfers of real property include the transfer of a present beneficial ownership of property through trusts. A claim with the county recorder must be made for exclusions. The claim is not considered a public document and can be inspected by the transferee or transferor and their spouses, legal representatives of the transferee or transferor and executors or administrators of the transferee or transferor's estate.

New Bill:

The new bill allows trustees of the transferee's trust to file claims with the county assessor, furnish written certifications and inspect the claim.

3rd Existing Law:

A taxpayer may transfer the base year value of property to a replacement property if the taxpayer meets certain conditions. A co-owner of the original property as a joint tenant, tenant in common, or community property owner may also claim the property tax relief. Under existing law a 'person' is defined as an individual.

New Bill:

The new bill expands the definition of a 'person' to include the present beneficiary of a trust. The new bill also expands the definition of 'co-owner' to include a present beneficiary of a trust.

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4th Existing Law:

Subdivision (k) of Section 3 of Article XIII of the California Constitution provides for homeowners' property tax exemptions depending on the assessed value of the dwelling.

New Bill:

The new bill includes a dwelling that is damaged in a misfortune or disaster for the property tax exemption as long as it qualifies. A dwelling that has been totally destroyed cannot receive the property tax exemption until it is rebuilt and occupied as a dwelling. In addition, the new bill provides for exemptions for dwellings destroyed in disasters that have been proclaimed a state of emergency by the governor.

5th Existing Law:

A property that does not meet qualifications for exemption are assessed at full cash value. The existing law also includes rebuttable presumptions for intercounty pipeline rights-of-way on publicly or privately owned property.

New Bill:

The new bill extends the rebuttable presumption to the fiscal year 2015 - 2016.

6th Existing Law:

A taxpayer may appeal to the county assessment appeals board for an assessment reduction. The taxpayer's opinion of value on the appeal is the basis for the calculation of property taxes when the county assessment appeals board does not hear evidence and make a final determination within 2 years of the filing of the application or extension of the 2 year period.

New Bill:

The new bill replaces 'county assessment appeals board' with 'county board' and 'taxpayer/taxpayer's' with 'applicant/applicant's.'

7th Existing Law:

A current or alternate member of the county assessment appeals board or hearing officer cannot represent a taxpayer for compensation in the county in which the member or hearing officer is serving in. A hearing officer must notify the county clerk if they represent themselves, spouse, parent or child in an assessment appeal.

New Bill:

The new bill repeals the provisions.

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8th Existing Law:

The existing law provides provisions for the correction of errors from incorrect entries on the property tax roll.

New Bill:

The new bill provides revisions that clarify the existing provision.

9th Existing Law:

Property taxes must be refunded if there was a payment in excess of the equalized value of the property.

New Bill:

The new bill revises the statutory reference to the most current statute.

10th Existing Law:

The Governor's Reorganization Plan No. 1 of 2009 provided for the transfer of duties from the Division of Telecommunications in the Department of General Services to the State Chief Information Officer. The California Integrated Waste Management Board was abolished and their duties were transferred to the Department of Resources Recycling and Recovery.

New Bill:

The new bill provides for the changes that were necessary due to the transfer of duties.



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