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AB-2004 County recorder: recordation of documents. (2023-2024)

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Date Published: 09/30/2024 02:00 PM

Assembly Bill No. 2004

CHAPTER 691

An act to amend Section 1207 of the Civil Code, and to add Section 27201.1 to the Government Code, relating to records.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2004, Petrie-Norris. County recorder: recordation of documents.

Existing law establishes various county offices, including the office of recorder. Existing law requires the recorder to, among other things, accept for recordation any instrument, paper, or notice that is authorized or required to be recorded, as specified. Existing law authorizes a notary public to apply for registration with the Secretary of State to perform online notarization according to specified requirements.

This bill would authorize a disinterested custodian, as defined, to certify that a tangible copy of an electronic record is a completed and accurate reproduction of the electronic record. The bill would require a recorder to accept for recording a tangible copy of an electronic record that has been so certified by a notary public if specified requirements are met. The bill would state that a tangible copy of an electronic record imparts notice of its contents, as specified, notwithstanding any failure of the person making the certification to qualify as a disinterested custodian. By imposing these requirements, and by expanding the crime of perjury, this bill would impose state-mandated local programs.

Existing law provides that any instrument affecting the title to real property, one year after the same has been copied into the proper book of record, that is kept in the office of any county recorder, provides notice of its contents to specified individuals, notwithstanding any defect, omission, or informality in the execution of the instrument or in the certificate of acknowledgment, or absence of that certificate.

This bill would instead provide that an above-described instrument provides notice of its contents 90 days after it has been copied into the proper book of record.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1207 of the Civil Code is amended to read:

1207. Any instrument affecting the title to real property, 90 days after the same has been copied into the proper book of record, kept in the office of any county recorder, imparts notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, or informality in the execution of the instrument, or in the certificate of acknowledgment thereof, or the absence of any such certificate; but nothing herein affects the rights of purchasers or encumbrancers previous to the taking effect of this act. Duly certified copies of the record of any such instrument may be read in evidence with like effect as copies of an instrument duly acknowledged and recorded; provided, when such copying in the proper book of record occurred within five years prior to the trial of the action, it is first shown that the original instrument was genuine.

SEC. 2. Section 27201.1 is added to the Government Code, immediately following Section 27201, to read:

27201.1. (a) (1) A disinterested custodian of an electronic record may certify that a tangible copy is a complete and accurate reproduction of the electronic record. The certification shall be subscribed and sworn to, or affirmed, by the disinterested custodian before a notary public and accompanied by a jurat attached thereto pursuant to Section 8202. The certification shall be in substantially the following form:

Certification of a Printed Copy of an Electronic Record

I hereby certify that the attached instrument entitled document title, if applicable, dated document date, and containing page count pages is an accurate reproduction of an electronic record printed by me or under my supervision. At the time of printing, I had access to the electronic record displaying intact tamper-evident security procedures. No security procedures used on the electronic record indicated any changes or errors in an electronic signature or other information in the electronic record after the completion of the electronic record's creation, execution, or notarization.

I am not a grantee, beneficiary, or otherwise a person who directly benefits from the attached instrument or electronic record.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraphs are true and correct.

Dated: _____

Name: _____

Signature: _____

(2) A certification made by a disinterested custodian pursuant to this subdivision is separate and distinct from a certified copy issued by a recorder for purposes of Sections 1530 and 1531 of the Evidence Code. The disinterested custodian shall so identify the certification according to the form required by paragraph (1).

(b) The recorder shall accept for recording a tangible copy of an electronic record bearing electronic signatures and containing a certificate in the form required by subdivision (a) as a certified copy of an original pursuant to subdivision (b) of Section 27201 provided that the electronic record is otherwise an instrument or notice that is authorized or required to be recorded and the tangible copy satisfies the requirements of subparagraph (A) of paragraph (1) of subdivision (a) of Section 27201.

(c) A tangible copy of an electronic record, once copied into the proper book of record, kept in the office of any county recorder, imparts notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any failure of the person making the certification to qualify as a disinterested custodian.

(d) For purposes of this section, "electronic record," "electronic signature," and "security procedure" have the same meaning as in Section 1633.2 of the Civil Code, and "disinterested custodian" means a person who has access to an electronic record displaying intact tamper-evident security procedures and who is not the grantee, beneficiary, or otherwise a person who directly benefits from the electronic record.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.