

2020 SUMMARY OF LEGISLATION



CONTENTS

Legislative Summaries.....	2-10
Index by Bill/Chapter No.....	11
Index by Topic.....	12
New Cases.....	13-18
Cases Index by Name	19
Cases Index by Topic.....	20
Legislative Committee / CLTA Staff ..	21
CLTA Titlecast Now Available	22

EDITOR'S NOTE

Of the 372 bills signed into law in 2020, 16 have been summarized as significant for the title industry.

The CLTA wishes to express its appreciation to the Legislative Committee for reviewing the legislation and summaries, and Anthony Helton, CLTA Legislative Coordinator, for producing this publication.

The Summary is intended merely to provide shorthand references to selected bills of interest to the title industry. The actual chaptered versions should always be reviewed for specific details.

Copies of bill text, histories, committee analyses, voting records and veto messages are available from the California Legislature's official website at leginfo.legislature.ca.gov under the "Bill Information, 2019-20 Session" link. All bills summarized in this publication become effective January 1, 2021, unless otherwise noted.

PLEASE NOTE: This publication contains live links to chaptered bill text and case documents. Links to chaptered bills can be found at the end of each bill summary; links to case documents can be accessed by clicking on the case name at the beginning of each case summary.

ACCESSORY DWELLING UNITS

- **Rental or Leasing of Separate Interests**

Existing law, the Davis-Stirling Common Interest Development Act, defines and regulates common interest developments. Existing law provides that an owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits the rental or leasing of any separate interest in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective before the date the owner acquired title to the owner's separate interest. Existing law permits an owner of a separate interest of a common interest development, despite the above provision, to expressly consent to be subject to a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant. Existing law makes these provisions applicable only to a provision in a governing document or a provision in an amendment to a governing document that became effective on or after January 1, 2012.

This act deletes the provision limiting the application to governing documents that became effective on or after January 1, 2012, and also deletes the provision authorizing an owner to expressly consent to be subject to a prohibition on renting or leasing of the owner's separate interest. The act provides that an owner of a separate interest in a common interest development is not subject to a provision in a governing document or an amendment to a governing document that prohibits, has the effect of prohibiting, or unreasonably restricts the rental or leasing of any of the separate interests, accessory dwelling units, or junior accessory dwelling units in that common interest development to a renter, lessee, or tenant.

The act prohibits a common interest development from adopting or enforcing a provision that restricts the rental or lease of separate interests to less than 25% of the separate interests in the common interest development. The act specifies that these provisions do not prohibit a common interest development from adopting a provision in a governing document that prohibits transient or short-term rentals of 30 days or less.

Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot.

This act deems a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit approved if the local agency has not acted upon the completed application within 60 days.

Existing law requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one accessory dwelling unit or one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met.

This act instead requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met.

Existing law authorizes a local agency to require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

This act instead specifies that the percolation test may be required as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system.

The act includes findings that changes made by this act address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

NOTE: This act incorporates additional changes to Section 65852.2 of the Government Code proposed by SB 1030 (Chapter 165).

Chapter 198 (AB 3182 – Ting); amending Section 4740 of, and adding Section 4741 to, the Civil Code, and amending Section 65852.2 of the Government Code.

FINANCIAL SERVICES

- **Department of Business Oversight**
- **Department of Financial Protection and Innovation**

Existing law establishes the Department of Business Oversight in the Business, Consumer Services, and Housing Agency, headed by the Commissioner of Business Oversight. Under existing law, the department has charge of the execution of specified laws relating to various financial institutions and financial services, including banks, trust companies, credit unions, finance lenders, and residential mortgage lenders.

This act renames the “Department of Business Oversight” as the “Department of Financial Protection and Innovation” (DFPI), which is charged with the execution of the above-specified laws. The act also puts this department in charge of various other laws relating to providing financial products

and services in this state. The act renames the commissioner of the department as the “Commissioner of Financial Protection and Innovation.” The act specifies that upon the operative date of its provisions, the powers, duties, responsibilities, and functions of the former Commissioner of Business Oversight and the Department of Business Oversight would become those of the Commissioner of Financial Protection and Innovation (commissioner) and the Department of Financial Protection and Innovation (department), respectively. The act requires the commissioner and department to retain all of the rights, properties, debts, and liabilities of the former commissioner and department and specifies that the change of name does not affect the validity of actions, proceedings, permits, or other actions taken previously.

This act also enacts the California Consumer Financial Protection Law (CCFPL), which is intended “to strengthen consumer protections by expanding the ability of the department to improve accountability and transparency in the California financial system and promote nondiscriminatory access to responsible, affordable credit, among other purposes.”

Of particular interest to title companies, the act exempts licensees, or an employee of a licensee, of any state agency other than the Department of Financial Protection and Innovation. The act also allows the DFPI to exercise enforcement powers for violations of the federal Consumer Financial Protection Act of 2010 (Dodd-Frank) with respect to entities that are licensed, registered or subject to oversight by the Commissioner of the Department of Financial Protection and Innovation.

The act requires the department to regulate the provision of various consumer financial products or services and to exercise nonexclusive oversight and enforcement authority under California consumer financial laws and, to the extent permissible, under the federal consumer financial laws. The act would make it unlawful for covered persons or service providers, as defined, to, among other acts, engage in unlawful, unfair, deceptive, or abusive acts or practices with respect to consumer financial products or services, or offer or provide a consumer a financial product or service that is not in conformity with any consumer financial law.

The act grants the department, among other duties, the power to bring administrative and civil actions, issue subpoenas, promulgate regulations, hold hearings, issue publications, conduct investigations, and implement outreach and education programs. The act also requires the department to promulgate specified regulations and to promulgate rules regarding registration requirements applicable to a covered person. The act requires the Legislature to conduct public hearings to obtain input on feasibility, and requires the commissioner to annually appear before and present information on enforcement actions and various other activities under the CCFPL to the appropriate legislative committees. The act further requires the department to establish the Financial Technology Innovation Office.

This act requires all moneys collected or received by the commissioner under the CCFPL to be deposited with the State Treasurer to the credit of the Financial Protection Fund, which the act creates, for the administration of the CCFPL. Moneys in those funds would consist of fees, fines, penalties, and other moneys received. All moneys in the fund would be available, upon appropriation by the Legislature, for purposes of the CCFPL. The act authorizes the department to set and collect a reasonable annual registration fee for each entity required to register under this law and to take action against persons who engage in unfair, deceptive, or abusive practices with respect to consumer financial products or services.

The act requires covered persons and service providers to file certain documents, under oath, with the department. The act also imposes specific civil and monetary penalties for violations of the CCFPL, as well as injunctive relief.

Chapter 157 (AB 1864 – Limón); amending Sections 300, 320, 321, 326, and 351 of, adding Division 24 (commencing with Section 90000) to, and repealing Section 371 of, the Financial Code, and amending Section 11041 of the Government Code.

FORECLOSURE

- **Alternative Process for Sale**
- **Post-Sale Bids and Procedures**
- **Date of Perfection of Sale**
- **Prohibition on Bundling of Properties for Sale**
- **Contents of Notice of Sale**
- **Maintenance of Properties**

Existing law prescribes various requirements to be satisfied before the exercise of a power of sale under a mortgage or deed of trust and prescribes a procedure for the exercise of that power. Existing law requires, among other things, that a statement of the default containing specific information be mailed to the trustor or mortgagor at that person’s last known address. If the deed of trust or mortgage containing a power of sale is secured by real property containing from 1 to 4 single-family residences, existing law requires the notice of sale to contain specified notices to potential bidders and to the property owner in substantially prescribed language.

This act, until January 1, 2026, requires the notice of sale also to contain a specified notice to a tenant regarding the tenant’s potential right to purchase a property containing from one to four single-family residences pursuant to a prescribed process. In connection with these properties, the act also requires a trustee to maintain an internet website and a telephone number to provide specified information on the properties that is free of charge and available 24 hours a day, 7 days a week.

(Continued on Next Page...)

FORECLOSURE (cont.)

(Continued from Previous Page...)

Existing law, with regard to the exercise of a power of sale under a mortgage or deed of trust, requires the sale to be held in the county where the property or some part of it is situated and to be made at auction, to the highest bidder. Existing law generally requires that if the property consists of several lots or parcels, they are to be sold separately unless the deed of trust or mortgage provides otherwise.

This act, until January 1, 2026, for purposes of the exercise of a power of sale as described above, prohibits a trustee from bundling properties for the purpose of sale, instead requiring each property to be bid on separately, unless the deed of trust or mortgage provides otherwise.

Existing law prescribes certain requirements for bids made at a trustee sale, authorizes a trustee to require bidders at these sales to satisfy certain conditions, and specifies when a trustee sale becomes final.

This act, until January 1, 2026, prescribes an alternative process in connection with a trustee's sale of property under a power of sale contained in a deed of trust or mortgage on real property containing one to four residential units. In this process, if a prospective owner occupant is the last highest bidder the sale becomes final on the date upon which specified conditions required of the bidder at the trustee sale to become final are met. The act requires the trustee to require the prospective owner occupant to provide certain information confirming the owner occupant's status. If a prospective owner occupant is not the last highest bidder, the act defines various eligible bidders who can make post-sale bids potentially to purchase the property as the last and highest bidder, subject to certain requirements and timelines that can delay the finality of the trustee's sale up to 45 days. The act prescribes duties for trustees in connection with this process that would be performed if an owner occupant is not the last highest bidder. This act also establishes the date on which the sale is deemed perfected by recordation of the trustee's deed under various circumstances, extending the current 15 days to 18 days and adding a new perfection date of 48 days under certain circumstances.

This act states that specified provisions related to mortgages and deeds of trust do not relieve a person who is deemed the legal owner of property when a trustee's deed is recorded from complying with applicable law regarding the eviction or displacement of tenants, including requirements for the provision of relocation assistance and just cause eviction.

Existing law specifically requires the owner of vacant residential property purchased at a foreclosure sale, or acquired through foreclosure under a mortgage or deed of trust, to maintain that property. Existing law authorizes a governmental entity to impose a civil fine of up to \$1,000 for each day that the owner fails to maintain the property, subject to the owner

being given notice and an opportunity to cure the violation. Existing law requires the entity levying the fine to provide a period of not less than 30 days for the legal owner to remedy the violation prior to imposing a civil fine.

This act increases the above-described civil fine to up to \$2,000 per day for the first 30 days, and up to a maximum of \$5,000 per day thereafter, subject to the discretion of the governmental entity levying the fine. The act requires the entity to provide notice of intent to assess a civil fine if the legal owner does not commence action to remedy the violation, notify the entity of that action, and complete the action within certain periods to be determined by the entity, subject to specified minimum lengths of time.

NOTE: Specific changes made by this act to Section 2924f of the Civil Code were made inoperative by the enactment of SB 1148 (Chapter 203).

Chapter 202 (SB 1079 – Skinner); amending Section 2929.3 of, amending, repealing, and adding Sections 2924f, 2924g, and 2924b of, adding Section 2924n to, and adding and repeal Section 2924m of, the Civil Code.

- **Declaration of Nonmonetary Status**
- **Publication of Notice of Sale**

Existing law prescribes a process pursuant to which a power of sale contained in a mortgage or deed of trust may be exercised, including publication of a specified notice of sale in a particular manner. Existing law requires that the first publication be at least 20 days before the date of sale, in a newspaper of general circulation published in the city in which the property or some part of it is situated, and if the property is not situated in a city, then in a newspaper of general circulation published in the public notice district in which the property or some part of it is situated. If a newspaper of general circulation is not published in the city or public notice district, the notice is to be published in a newspaper of general circulation in the county in which the property or some part of it is situated, subject to further conditions. Existing law prescribes specific public notice districts throughout the state.

This act eliminates the initial requirement that a notice of sale be published in the city in which the property or some part of it is situated, instead providing that the initial publication preference is for a newspaper of general circulation in the public notice district in which the property, or some part of it, is situated. The act makes conforming changes.

Existing law authorizes a trustee to file a declaration of non-monetary status if the trustee under a deed of trust is named in an action or proceeding in which that deed of trust is the subject, and the trustee reasonably believes that it has been...

(Continued on Next Page...)

FORECLOSURE (cont.)

(Continued from Previous Page...)

...named solely in its capacity as trustee and not arising from any wrongful acts or omissions. Certain consequences arise from such a filing, including giving parties who have appeared in the action or proceeding 15 days from service of the declaration to object to it. Upon the timely service of an objection to the declaration of nonmonetary status, existing law grants the trustee 30 days from the date of service to file an answer or other responsive pleading.

This act prohibits charging a fee for the filing of a declaration of nonmonetary status in this context.

NOTE: This act incorporates additional changes to Section 2924f as proposed by SB 1079 (Chapter 202).

Chapter 203 (SB 1148 – Jones); amending Sections 2924f and 2924l of the Civil Code.

HOUSING

- **Financing Programs**
- **Recorded Affordability Restrictions**

Existing law establishes, among other housing programs administered by the Department of Housing and Community Development, the Multifamily Housing Program, pursuant to which the department provides assistance in the form of deferred payment loans to pay for specified eligible costs of development of specified housing projects.

This act authorizes the department, in administering the Multifamily Housing Program, to establish set-asides for specific project types or projects that serve specific target populations.

Existing law requires the department to establish and administer the Joe Serna, Jr. Farmworker Housing Grant Program. Subject to the availability of funds in the Joe Serna, Jr. Farmworker Housing Grant Fund, a continuously appropriated fund, existing law requires the department to provide grants, loans, or both to specified entities for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing to remedy the impacts of the displacement of farmworker families. Existing law requires the department to supervise grantees of program funds. Existing law authorizes the department, with respect to program grantees, to enter upon and inspect the lands, buildings, and equipment of a grantee and to supervise the operation and maintenance of any housing assisted by the program.

Existing law establishes the CalHome Program, administered by the department, to enable low- and very low income house-

holds to become or remain homeowners.

This act authorizes Joe Serna, Jr. Farmworker Housing Grant Program funds to be used for additional purposes, including loans for the construction or rehabilitation of rental housing for lower-income agricultural employees, loans that assist development projects involving multiple home ownership units for lower-income agricultural employees, and grants for programs that assist lower-income agricultural employees to become or remain homeowners. The act authorizes the department to determine the amount of appropriated moneys allocated to each of these authorized purposes. The act requires the department, in administering the program, to make funds available at the same time it makes funds, if any, available under the Multifamily Housing Program or CalHome Program rate and rank applications in a manner consistent with the Multifamily Housing Program or CalHome Program and administer the funds consistent with the Multifamily Housing Program or CalHome Program. The act removes the provisions establishing the supervision requirements described above. The act also deletes the authorizations of the department to enter upon and inspect the lands, buildings, and equipment of a grantee and to supervise the operation and maintenance of any housing assisted by the program.

Existing law requires the department to administer the Infill Incentive Grant Program of 2007, also known as the Infill Infrastructure Grant Program, and award competitive grants under that program to selected capital improvement projects that are an integral part of, or necessary to facilitate the development of, a qualifying infill project or a qualifying infill area.

This act requires the department, in administering the Infill Incentive Grant Program of 2007 with regard to qualifying infill projects, to make funds available at the same time it makes funds available under the Multifamily Housing Program, rate and rank applications in a manner consistent with the Multifamily Housing Program, and administer program funds consistent with the Multifamily Housing Program. The act makes other conforming changes in this regard.

Existing law requires a project or infill area to satisfy certain conditions to be eligible for funding under the program, including that it be located in an area designated for mixed-use or residential development pursuant to a general plan, project area redevelopment plan, or a regional blueprint plan.

This act instead requires the project or infill area be located in an area designated for mixed-use or residential development pursuant to a general plan, regional sustainable communities strategy, or alternative planning strategy.

Existing law establishes the Infill Infrastructure Grant Program of 2019, which requires the Department of Housing and Community Development, upon appropriation of funds by the Legislature, to establish and administer a grant program to allocate those funds to capital improvement projects that are an...

(Continued on Next Page...)

HOUSING (cont.)

(Continued from Previous Page...)

integral part of, or necessary to facilitate the development of, a qualifying infill project or qualifying infill area, as those terms are defined, pursuant to specified requirements. Existing law defines “eligible applicant” to include a nonprofit or for-profit developer of a qualifying infill project that applies jointly with the city, county, city and county, or public housing authority that has jurisdiction over a qualifying infill area.

This act, as of the effective date of these provisions, instead defines “eligible applicant” to include a nonprofit or for-profit developer of a qualifying infill project that receives a letter of support from the governing body of the city or county that has jurisdiction over a qualifying infill area.

Existing law establishes the Transit-Oriented Development Implementation Program, to be administered by the department, to provide grants to local agencies and loans to developers for the purpose of developing or facilitating the development of higher density uses within close proximity to transit stations.

This act removes the authorization to award grants to local agencies and instead requires the local assistance program to provide loans only to developers.

Existing law requires the department, in administering the Transit-Oriented Development Implementation Program, to make loans for development and construction of housing developments that meet specified requirements, including that at least 15% of the units in the proposed development are made available to persons of very low or low income for at least 55 years and the development be located within 1/4 of a mile of a transit station.

This act additionally requires a housing development to meet density requirements established by the department, be located in an area designated by the appropriate council of governments for infill development, and meet any other requirements established by the department in order to be eligible for funding. The act also requires the department, in administering the Transit-Oriented Development Implementation Program, to make funds available at the same time it makes funds available under the Multifamily Housing Program or CalHome Program, rate and rank applications in a manner consistent with the Multifamily Housing Program or CalHome Program, and administer program funds consistent with the Multifamily Housing Program or CalHome Program, depending on whether the funds are for the development of rental housing or owner-occupied housing. The act also requires that the loan terms of any loan issued pursuant to the program be consistent with the loan terms of the Multifamily Housing Program or CalHome Program. The act makes additional conforming changes in this regard.

Existing law requires the Department of Housing and Community Development to establish the Housing for a Healthy

California Program to create supportive housing opportunities through grants to counties for capital, rental assistance, and operating subsidies or through operating reserve grants and capital loans to developers.

This act requires the department, in administering the operating reserve grants and capital loans available to developers under the Housing for a Healthy California Program, to make funds available at the same time it makes funds available under the Multifamily Housing Program, rate and rank applications in a manner consistent with the Multifamily Housing Program, and administer program funds consistent with the Multifamily Housing Program.

Existing law, the Veterans Housing and Homeless Prevention Act of 2014, requires the California Housing Finance Agency, the Department of Housing and Community Development, and the Department of Veterans Affairs (referred to collectively as “the departments”) to establish and implement programs that focus on veterans at risk for homelessness or experiencing temporary or chronic homelessness. In this regard, existing law requires the departments to establish and implement programs that, among other things, prioritize projects that combine housing and supportive services.

This act instead requires the departments to establish and implement programs that ensure that projects combine housing and supportive services. The act also requires the departments, in administering the programs, to make funds available at the same time funds are made available under the Multifamily Housing Program, rate and rank applications in a manner consistent with the Multifamily Housing Program, and administer program funds consistent with the Multifamily Housing Program. The act also requires that the loan terms of any loan issued pursuant to the programs to be consistent with the loan terms of the Multifamily Housing Program.

Except as specified above, the act would make these provisions operative on January 1, 2022.

Chapter 192 (AB 434 – Daly); amending Sections 53563 and 53559.1 of, and amending, repealing, and adding Sections 50517.5, 50675.1, 50675.7, 53545.13, 53560, 53562, 53566, 53591 of, the Health and Safety Code, and amending, repealing, and adding Sections 987.005 and 987.010 of the Military and Veterans Code.

JUDGMENTS

- **Exemptions from Enforcement**

Existing law identifies various types of property of a judgment debtor that are exempt from the enforcement of a money judgment. Existing law provides that property described in statute as exempt may be claimed within the time and in the...

(Continued on Next Page...)

JUDGMENTS (cont.)

(Continued from Previous Page...)

... manner prescribed in the applicable enforcement procedure, and property described in statute as exempt without making a claim is not subject to any procedure for enforcement of a money judgment. These general exemptions are available to a debtor in a federal bankruptcy case, whether a money judgment is being enforced by execution sale or other procedure, unless the debtor elects certain alternative exemptions that are applicable only in the bankruptcy case.

Existing law requires the Judicial Council to, every three years, adjust the amount of the exemptions applicable to exempt property based on the change in the annual California Consumer Price Index for All Urban Consumers.

Existing law, the Golden State Scholarshare Trust Act, establishes the Golden State Scholarshare College Savings Trust for the purpose of administering funds contributed by participants as a means of paying for postsecondary education costs.

This act increases the statutory amounts of various exemptions to reflect the amounts of the exemptions as adjusted by the Judicial Council effective April 1, 2019. The act provides that money held in an account owned by the judgment debtor and established pursuant to the Golden State Scholarshare Trust Act is exempt for the purposes described above, subject to specified limits.

Chapter 81 (SB 898 – Wieckowski); amending Sections 703.140, 704.010, 704.030, 704.040, 704.060, 704.080, 704.090, and 704.100 of, and adding Section 704.105 to, the Code of Civil Procedure.

• Homestead Exemption

Existing law provides that a specified portion of equity in a homestead, as defined, is exempt from execution to satisfy a judgment debt and prescribes that the amount of the homestead exemption is either \$75,000, \$100,000, or \$175,000, depending on certain characteristics of the homestead's residents.

This act instead makes the homestead exemption the greater of \$300,000 or the countywide median sale price of a single-family home in the calendar year prior to the calendar year in which the judgment debtor claims the exemption, not to exceed \$600,000. These amounts would adjust annually for inflation.

Chapter 94 (AB 1885 – Committee on Budget); amending Section 704.730 of the Code of Civil Procedure.

• Enforcement of Money Judgments on Principal Residences

Existing law authorizes a judgment creditor to enforce a money judgment obtained in a civil action by obtaining a writ of execution that allows the creditor to levy on property of the judgment debtor and obtain satisfaction of the judgment by, among other things, a sale of the property. Existing law generally provides that all property of the judgment debtor is subject to execution, with specified exceptions. Existing law authorizes a judgment debtor to protect a specified amount of the judgment debtor's equity in the debtor's principal dwelling by claiming a homestead exemption in that property. Existing law requires a judgment creditor who has levied on a judgment debtor's dwelling to apply to the court for a sale of the dwelling, and specifies the contents of that application.

This act prohibits a sale under execution of a judgment lien of a judgment debtor's principal place of residence based on a consumer debt unless that debt was secured by that principal place of residence at the time it was incurred. The act exempts specified forms of debt from this prohibition, including debts owed to financial institutions if the amount of the original judgment on which the lien is based, when entered, and the amount owed on the outstanding judgment at the time of execution on the judgment lien, are greater than \$75,000, as adjusted for inflation by the Judicial Council. The act requires a judgment creditor's application for sale of a dwelling to include a statement that the judgment on which the execution sale is based was secured by the debtor's principal place of residence at the time it was incurred or a statement indicating which exemption is applicable.

Chapter 218 (AB 2463 – Wicks); amending Sections 703.150 and 704.760 of, and adding Section 699.730 to, the Code of Civil Procedure.

• Written Stipulation by Attorney

Existing law authorizes a court, upon motion, to enter a judgment in pending litigation pursuant to the terms of a settlement if the parties to the litigation stipulate to settle the litigation outside of the presence of the court in a writing that is signed by the parties.

This act provides that the writing may also be signed by an attorney who represents a party, or, if a party is an insurer, an agent who is authorized in writing by the insurer to sign on the insurer's behalf. The act provides that an attorney who signs the writing on behalf of a party without express authorization to do so shall, absent good cause, be subject to professional discipline.

Chapter 290 (AB 2723 – Chiu); amending Section 664.6 of the Code of Civil Procedure.

LIENS

- **Determination of Consent Incurred by Domestic Violence**
- **Lien Priority**

Existing law enacts procedures to prevent acts of domestic violence, abuse, and sexual abuse and authorizes a court to issue an ex parte order determining the temporary use, possession, and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the period the order is in effect. Existing law also authorizes a court to issue orders based on ex parte orders, including the above-described order, after notice and a hearing.

This act authorizes, on and after January 1, 2022, the court to issue an order determining the use, possession, and control of real or personal property of the parties during the period the order is in effect and the payment of any liens or encumbrances coming due during that period. The act authorizes the order to include a finding that specific debts were incurred as the result of domestic violence and without the consent of a party and provides that this finding does not affect the priority of any lien or other security interest. The act requires the Judicial Council to adopt appropriate forms and modify existing forms to effectuate this change.

Chapter 245 (AB 2517 – Gloria); adding Section 6342.5 to the Family Code.

MORTGAGES AND DEEDS OF TRUST

- **Foreclosure**
- **Homeowners' Bill of Rights**
- **Mortgage Forbearance**

This act establishes a new legal framework to address circumstances and time periods where a tenant has fallen behind on rent due to the COVID-19 pandemic and expands the Homeowners Bill of Rights.

Among other things, the act requires that, under specified circumstances, a tenant's unpaid rent will be converted to consumer debt and cannot form the basis for an eviction. Unpaid rent that accrued between March 1, 2020, and August 31, 2020 is converted to consumer debt and cannot ever form the basis for an eviction. For unpaid rent accruing between September 1, 2020, and January 31, 2021, the non-payment cannot form the basis for an eviction until after January 31, 2021. In addition, if the tenant pays at least 25 percent of any amount that the landlord demands after it comes due, the remaining unpaid balance is converted to consumer debt and cannot form the basis for an eviction. Small claims court jurisdiction is expanded until February 1, 2025, to allow landlords to sue for any amount of unpaid

rent (consumer debt) for the period March 1, 2020, to January 31, 2021.

The act increases by ten times the liability for a landlord that attempts or succeeds in facilitating, an eviction contrary to the provisions of the bill, and further prohibits a landlord from retaliating against a tenant for having fallen behind on rent or other payment obligations under the lease due to a financial impact from COVID-19.

The bill also extends the procedural anti-foreclosure protections of the Homeowners' Bill of Rights to specified small landlords until 2023. New duties are imposed on mortgage servicers regarding forbearance requests on 1-4 residential units, and mortgage servicers must offer forbearance options consistent with the federal CARES act. These rights to forbearance are coupled with borrowers' enforcement rights.

NOTE: This act took effect as an urgency measure on August 31, 2020.

Chapter 37 (AB 3088 – Chiu); amending Sections 1946.2, 1947.12, and 1947.13 of, amending, repealing, and adding Sections 798.56, 1942.5, 2924.15 of, adding Title 19 (commencing with Section 3273.01) to Part 4 of Division 3 of, and adding and repealing Section 789.4 of, the Civil Code, and amending, repealing, and adding Sections 1161 and 1161.2 of, adding Section 1161.2.5 to, adding and repealing Section 116.223 of, and adding and repealing Chapter 5 (commencing with Section 1179.01) of Title 3 of Part 3 of, the Code of Civil Procedure.

NONPROBATE TRANSFERS

- **Revocable Transfer on Death Deeds: Extension**

Existing law governs the execution, revocation, and effectiveness of a revocable transfer on death (TOD) deed, defined as an instrument that makes a donative transfer of property to a named beneficiary that operates on the transferor's death, and remains revocable until the transferor's death. Existing law establishes statutory forms for executing and revoking a revocable TOD deed that include provisions and instructions for the forms to be notarized by the transferor and recorded with the county recorder. Existing law requires that subsequent pages of the form to execute a revocable TOD deed include statutory "common questions" regarding the use of that form. Existing law requires that, in order to be effective, a revocable TOD deed be recorded on or before 60 days after the date it was executed. Existing law makes these provisions inoperative on January 1, 2021.

This act extends the operative date of those provisions until January 1, 2022.

Chapter 238 (SB 1305 – Roth); amending Section 5600 of the Probate Code.

PROPERTY ASSESSED CLEAN ENERGY (PACE)

• Rescission of Contracts by Senior Citizens

Existing law provides that a contract is extinguished by its rescission and sets forth methods for the rescission of a contract. Existing law authorizes a buyer to cancel certain home solicitation contracts or offers until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase which complies with specified requirements. Existing law authorizes a buyer to cancel a home solicitation contract written for certain home improvement work until midnight of the third business day after the buyer receives a signed and dated copy of the contract or offer to purchase that complies with specified requirements. Existing law requires contracts for a home solicitation contract or offer to include a notice of cancellation form with specified statement's as to the buyer's right to cancel. Existing law permits a buyer to provide a seller an express waiver to this right to cancel, if the contract meets other specified requirements. Existing law also provides a buyer a similar right to cancel a seminar sales solicitation contract or offer and imposes similar requirements to provide a notice of cancellation to the buyer.

Existing law requires specific provisions and requirements for home improvement contracts, as defined, that are not governed by the provisions described above, and service and repair contracts. Existing law requires these contracts to include a notice regarding the buyer's three-day right to cancel.

Existing law authorizes the legislative body of a public agency to determine that it would be convenient, advantageous, and in the public interest to designate an area within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance certain improvements. Existing law prohibits a public agency from permitting a property owner meeting certain criteria to participate in any program established pursuant to these provisions for specified purposes unless the property owner is given the right to cancel the contractual assessment without penalty or obligation before midnight on the 3rd business day after a specified date. Existing law also requires a financing estimate and disclosure document to be provided to the property owner prior to entering into the voluntary contractual assessment. Existing law requires the document to include, among other things, a description of the property owner's right to cancel.

This act extends the period of time to cancel the contracts or offers described above from three to five business days if the buyer or property owner is a senior citizen, for contracts entered into, or offers to purchase conveyed, on or after January

1, 2021. The act also makes conforming changes.

Chapter 158 (AB 2471 – Maienschein); amending Sections 7150, 7159, and 7159.10 of the Business and Professions Code, amending Sections 1689.5, 1689.6, 1689.7, 1689.13, 1689.20, 1689.21, and 1689.24 of the Civil Code, and amending Sections 5898.16 and 5898.17 of the Streets and Highways Code.

REAL PROPERTY

- **Sale of Tenant-Occupied Real Property**
- **Assignment of Judgment**
- **Enforcement of Defensible Space Requirements**

Existing law requires a notice of sale to be posted before any power of sale may be exercised under the power of sale contained in a deed of trust or mortgage.

This act, beginning March 1, 2021, also requires a resident of property upon which a notice of sale has been posted to be advised that, if the person is renting the property, the new property owner may either give the tenant a new lease or rental agreement or provide the tenant with a 90-day eviction notice, and that the new property owner is required to honor the lease unless the new owner will occupy the property as a primary residence or under limited circumstances. The act makes it an infraction to tear down the notice within 72 hours of posting. The act requires the Department of Business Oversight and the Department Real Estate to make translations of the notice available in specified languages.

Existing law provides that an assignee of a right represented by a judgment may become an assignee of record by filing with the clerk of the court an acknowledgment of assignment of judgment.

This act requires documentation evidencing authorization to be filed with an acknowledgment of assignment of judgment if an acknowledgment of assignment of judgment purports to be executed or acknowledged by an authorized agent of the judgment creditor or prior assignee of record. This act also authorizes an assignee of a right represented by a judgment to become an assignee of record by filing with the clerk of the court a court order or other documentation evidencing assignment of judgment by operation of law.

Existing law requires a seller of residential real property located in a high or very high fire hazard severity zone, as specified, to provide to the buyer documentation stating that the property is in compliance with state law requiring certain defensible space requirements around the property or, if applicable, with a local vegetation management ordinance. If the seller has not obtained that documentation, existing law requires the seller and buyer to enter into a written agreement pursuant to which the buyer agrees to obtain documentation of compliance, as specified.

(Continued on Next Page...)

REAL PROPERTY (cont.)

(Continued from Previous Page...)

This act specifies that nothing in those provisions, including provisions regarding the existence of an agreement between a buyer and seller, limits the ability of a state or local agency to enforce defensible space requirements or other applicable statutes, regulations, and local ordinances.

Chapter 36 (AB 3364 – Committee on Judiciary); amending Section 1102.19 of, and adding Section 2924.8 to, the Civil Code, and amending Section 681.020 of the Code of Civil Procedure.

SUBDIVISIONS

• Commercial Uses Exemption

Existing law requires any person who intends to offer subdivided lands for sale or lease to file with the Bureau of Real Estate an application for a public report consisting of, among other things, a notice of intention and to comply with other related requirements. Existing law also requires that every sales contract relating to the purchase of real property in a subdivision clearly set forth the legal description of the property, of the encumbrances outstanding at the date of the sales contract, and the terms of the contract. Existing law exempts from these provisions, among other things, the proposed sale or lease of lots or other interests in a subdivision that is limited to industrial or commercial uses by law or by a declaration of covenants, conditions, and restrictions that has been recorded in the official records of the county or counties in which the subdivision is located.

This act instead exempts the proposed sale or lease of those lots or other interests in a subdivision that are limited to industrial or commercial uses, as described above. This act specifies that this exemption only applies with respect to specified provisions relating to the filing of a report with the Bureau of Real Estate and does not affect any determination whether there are five or more lots, parcels, or other interests for purposes of specified law. The act expressly provides that “commercial uses” for these purposes includes the operation of an apartment complex that is not a community apartment project. The act also repeals an obsolete article heading relating to the sale or leasing of subdivided lands.

This act makes various other changes to existing law relating to local government.

Chapter 371 (SB 1473 – Committee on Governance and Finance); amending Section 11010.3 of the Business and Professions Code.

WORKER CLASSIFICATION

- *Dynamex Operations West, Inc. v. Superior Court*
- **Employees and Independent Contractors**
- **Licensed Real Estate Appraisers and Home Inspectors**

Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business.

Existing law exempts specified occupations and business relationships from the application of the ABC test described above. Existing law, instead, provides that these exempt relationships are governed by the multifactor test previously adopted in the case of *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341. Existing exemptions include persons providing professional services under specified circumstances, including certain services provided by still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists.

This act makes various changes to the law relating to worker classification. Of particular interest to title companies, this act creates exemptions from the ABC test for licensed real estate appraisers and home inspectors.

NOTE: This act took effect as an urgency measure on September 4, 2020.

Chapter 38 (AB 2257 – Gonzalez); adding Article 1.5 (commencing with Section 2775) to Chapter 2 of Division 3 of, and repealing Section 2750.3 of, the Labor Code, and amending Sections 17020.12 and 23045.6 of, and adding Sections 18406, 21003.5, and 61001 to, the Revenue and Taxation Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

INDEX BY BILL NUMBER

ASSEMBLY BILL	CHAPTER	PAGE NUMBER
AB 434	Chapter 192	5-6
AB 1864.....	Chapter 157.....	2-3
AB 1885.....	Chapter 94.....	7
AB 2257.....	Chapter 38.....	10
AB 2463.....	Chapter 218.....	7
AB 2471.....	Chapter 158.....	9
AB 2517.....	Chapter 245.....	8
AB 2723.....	Chapter 290.....	7
AB 3088.....	Chapter 37.....	8
AB 3182.....	Chapter 198.....	2
AB 3364.....	Chapter 36.....	9-10

SENATE BILL	CHAPTER	PAGE NUMBER
SB 898	Chapter 81.....	6-7
SB 1079	Chapter 202.....	3-4
SB 1148	Chapter 203.....	4-5
SB 1305	Chapter 238.....	8
SB 1473	Chapter 371.....	10

INDEX BY CHAPTER NUMBER

CHAPTER	BILL NUMBER	PAGE NUMBER
Chapter 36	AB 3364.....	9-10
Chapter 37	AB 3088.....	8
Chapter 38	AB 2257.....	10
Chapter 81	SB 898.....	6-7
Chapter 94	AB 1885.....	7
Chapter 157	AB 1864.....	2-3
Chapter 158	AB 2471.....	9
Chapter 192	AB 434.....	5-6
Chapter 198	AB 3182.....	2
Chapter 202	SB 1079.....	3-4
Chapter 203	SB 1148.....	4-5
Chapter 218	AB 2463.....	7
Chapter 238	SB 1305.....	8
Chapter 245	AB 2517.....	8
Chapter 290	AB 2723.....	7
Chapter 371	SB 1473.....	10

LEGISLATIVE INDEX BY TOPIC

ACCESSORY DWELLING UNITS

Rental or Leasing of Separate Interests.....2

FINANCIAL SERVICES

Department of Business Oversight..... 2-3

Department of Financial Protection and Innovation .. 2-3

FORECLOSURE

Alternative Process for Sale..... 3-4

Contents of Notice of Sale 3-4

Date of Perfection of Sale 3-4

Declaration of Nonmonetary Status 4-5

Maintenance of Properties 3-4

Mortgages and Deeds of Trust8

Post-Sale Bids and Procedures 3-4

Prohibition on Bundling of Properties for Sale..... 3-4

Publication of Notice of Sale..... 4-5

HOUSING

Financing Programs 5-6

Recorded Affordability Restrictions 5-6

JUDGMENTS

Enforcement of Money Judgments on

Principal Residences7

Exemptions from Enforcement 6-7

Homestead Exemption7

Written Stipulation by Attorney7

LIENS

Determination of Consent Incurred by

Domestic Violence8

Lien Priority8

MORTGAGES AND DEEDS OF TRUST

Foreclosure8

Homeowners' Bill of Rights8

Mortgage Forbearance.....8

NONPROBATE TRANSFERS

Revocable Transfer on Death Deeds Extension.....8

PROPERTY ASSESSED CLEAN ENERGY (PACE) CONTRACTS

Rescission of Contracts by Senior Citizens9

REAL PROPERTY

Assignment of Judgment 9-10

Enforcement of Defensible Space Requirements..... 9-10

Sale of Tenant-Occupied Real Property 9-10

SUBDIVISIONS

Commercial Uses Exemption10

WORKER CLASSIFICATION

Dynamex Operations West, Inc. v. Superior Court.....10

Employees and Independent Contractors10

Licensed Real Estate Appraisers and Home Inspectors 10

**THE FOLLOWING PAGES CONTAIN
NEW CASES
OF IMPORTANCE TO THE TITLE INDUSTRY**

PLEASE NOTE: The CLTA would like to thank Roger Therien of Old Republic Title Company for providing the following case summary information.

AGREED BOUNDARIES

McDermott Ranch, LLC v. Connolly Ranch, Inc

(2019) 43 Cal.App.5th 549

The court affirmed the judgment quieting title in defendant based on the agreed boundary doctrine. The court held that testimony of the son as to what his father had said about the agreed boundary was properly admitted as an exception to the hearsay rule under Evidence Code Section 1323 because the trial court properly determined that the testimony was trustworthy, the declarant was unavailable as a witness (deceased) and the witness had sufficient knowledge of the subject.

COMMUNITY PROPERTY

In re Brace

(2020) 9 Cal.5th 903

On a question referred by the Ninth Circuit, the California Supreme Court answered as follows:

1. Evidence Code section 662 does not apply to property acquired during marriage when it conflicts with Family Code section 760. For joint tenancy property acquired during marriage before 1975, each spouse's interest is presumptively separate in character. For joint tenancy property acquired with community funds on or after January 1, 1975, the property is presumptively community in character.
2. If such property was acquired before 1985, the parties can show a transmutation from community property to separate property by oral or written agreement or a common understanding. Although a joint tenancy deed is insufficient to effect a transmutation, a court may consider the form of title in determining whether the parties had a common agreement or understanding under the pre-1985 rules. For joint tenancy property acquired with community funds on or after January 1, 1985, a valid transmutation from community property to separate property requires a written declaration that expressly states that the character or ownership of the property is being changed. A joint tenancy deed, by itself, does not suffice.
3. Nothing in this decision precludes spouses from holding separate property as joint tenants or from transmuting community property into separate property held in joint tenancy as long as the applicable transmutation requirements are met. Nor does this decision alter the operation of the right of survivorship that is the main incident of joint tenancy title.

In re Marriage of Mohler

(2020) 47 Cal.App.5th 788

This case deals with the division of community property interest in real estate that was the separate property of a spouse at the time of marriage, but where community property funds were subsequently used to pay down the principle on a loan secured by a mortgage on the property, pay property taxes or make improvements. The court held that the community is also entitled to be compensated for a spouse's post-separation occupation of the property.

FORGERY

WFG National Title Ins. Co. v. Wells Fargo Bank, N.A.

(2020) 51 Cal.App.5th 881. Review denied
 People v. Aguilar, 2020 Cal. LEXIS 5889
 (Cal., Aug. 26, 2020)

A trustee's deed purporting to foreclose on Wells Fargo's deed of trust was forged. The purported purchaser sold to a subsequent purchaser who encumbered the property with a loan from Alviso Funding secured by a deed of trust. The court held that Alviso's deed of trust was void because it derived title through the forged trustee's deed. The court rejected Alviso's argument that Wells Fargo should be equitably estopped from asserting its interest because it failed to monitor the status of its title or to take affirmative steps to rid public records of the forged deed, finding that a lender has no legal duty to do so.

HOMEOWNERS BILL OF RIGHTS

Adams v. Bank of America, N.A.

(2020) 51 Cal.App.5th 666

A borrower who was foreclosed out by a junior deed of trust was entitled to the protections of the Homeowner Bill of Rights (HBOR) as to the first deed of trust if the borrower remains in possession of the property as her principal residence. The definition of "Owner-Occupied" under the HBOR only requires that the person named as the borrower on the loan also occupies the property as the borrower's principal residence, not that the borrower still owns the property.

IMPLIED DEDICATION

Tiburon/Belvedere Residents United to Support Trails v. Martha Co.

(2020) 56 Cal.App.5th 461

The court held that plaintiff failed to establish an implied dedication of trails over defendant's land. An implied by law dedication is established when the public has used the land for a period of more than five years with full knowledge of the owner, without asking or receiving permission to do so and without objection being made by anyone. Civil Code Section 1009(b) abrogated this rule prospectively, which is why the dispute before the court centered on the five-year period preceding section 1009's effective date of March 4, 1972. The court found that use of the trails in question was not by the general public, but rather by neighbors. When the predominant users are neighbors, the landowner may have simply tolerated their use as a neighborly accommodation, and such use is not sufficient to establish an implied dedication. Even assuming, for the sake of argument, that plaintiff showed substantial, diverse, and sufficient public use, there was substantial evidence that defendant made adequate bona fide attempts to prevent public use.

IRREVOCABLE LICENSE

Gamerberg v. 3000 E. 11th St., LLC

(2020) 44 Cal.App.5th 424. Review denied
2020 Cal. LEXIS 3323 (Cal., May 13, 2020)

The court held that an unrecorded irrevocable license does not survive a transfer of the property to a bona fide purchaser without notice. Here, a previous owner of defendant's property entered into an agreement that constituted an irrevocable license to provide eight parking spaces to a previous owner of plaintiff's property. The agreement was filed with the city Building Department but was not recorded and defendant did not know of its existence when it purchased the property. Accordingly, defendant was not bound by the agreement.

JUDICIAL FORECLOSURE

Robin v. Crowell

(2020) 55 Cal.App.5th 727

The court held that a junior lienholder is not affected by the judicial foreclosure of a senior deed of trust, if the junior lien existed prior to the foreclosure and the junior lienholder was not made a party to the senior lienholder's foreclosure action. To remove a junior lien, the holder of the senior lien or the buyer at the senior sale (standing in the shoes of the senior lienholder) may file a second action to foreclose the omitted party's equity of redemption or a quiet title action having the same effect. However, in this case the second action was barred by the statute of limitations (4 years under C.C.P. Sections 337(a) and 2911).

Additionally, a non-judicial sale was not available because the senior lienholder cannot conduct a trustee's sale after the property has been sold in the senior lienholder's judicial foreclosure action. The judicial foreclosure sale results in a conveyance of title from the trustee to the buyer at the sale. Once the judicial sale is complete, the trustee no longer holds any title to convey through a subsequent trustee's sale. Also, it would be impossible to comply with the statutory requirements for a non-judicial sale.

LOAN MODIFICATIONS

Weimer v. Nationstar Mortgage, LLC

(2020) 47 Cal.App.5th 341. Review granted,
briefing deferred, 2020 Cal. LEXIS 4679 (Cal.,
July 22, 2020)

In the published portion of the opinion, the court reversed the trial court's sustaining of a demurrer, holding that the complaint sufficiently alleged a negligence cause of action, including a duty of care, against loan servicers for their handling of a loan modification application. The fact that the loan servicers did not make default a condition for being considered for a loan modification did not change this result.

MECHANICS LIENS

Carmel Development Co., Inc. v. Anderson

(2020) 48 Cal.App.5th 492

In this long, complicated case the main holdings are:

1. A mechanics lien that benefited all lots in a subdivision must be allocated to all lots, not only to unsold lots;
2. A mechanics lien foreclosure action is sufficiently like a contract action to be considered a “cause of action in contract” for purposes of awarding prejudgment interest under Civil Code Section 3287(b);
3. The constitutional 7% default rate of interest applies to prejudgment interest on a mechanics lien as to a non-contracting owner, rather than the 10% rate set forth in Civil Code Section 3289(b).

QUIET TITLE

Huang v. Wells Fargo Bank, N.A

(2020) 48 Cal.App.5th 431

After receiving a notice of sale under a deed of trust, plaintiffs immediately provided it to their title insurer to resolve any dispute with defendant. The trustee’s sale did not take place as scheduled, and plaintiffs heard nothing substantive about the matter for several years thereafter. All the while, plaintiffs continuously lived in and possessed the home. The court held that under these circumstances, the statute of limitations under Civil Code Section 338(d) did not run and the trial court improperly granted summary judgment for defendant.

Reuter v. Macal

(2020) 57 Cal.App.5th 571

The court held that a deed executed by plaintiff in favor of himself and defendant should be rescinded under Civil Code Section 1590 as a gift made in contemplation of marriage. The action was not barred by the statute of limitations because plaintiff had remained in possession. As long as plaintiff enjoyed possession of the property and defendant did not press her adverse claim against him in a manner that threatened or disturbed that possession, no statute of limitations began to run.

RECORDING / CONSTRUCTIVE NOTICE

Vasquez v. LBS Financial Credit Union

(2020) 52 Cal.App.5th 97

The court held that two abstracts of judgment against “Wilbert G. Guerrero” did not impart constructive knowledge as to property held in the name of “Guilleromo Wilbert Guerrero”. Accordingly, plaintiffs were bona fide purchasers for value who took free of the judgment liens.

STATUTE OF FRAUDS

Reeder v. Specialized Loan Servicing LLC

(2020) 52 Cal.App.5th 795

Plaintiff lost an investment property to foreclosure after he failed to make the balloon payment due on a 2005 home equity line of credit that matured in 2015. He sued the lender claiming that the lender had made a verbal commitment that, at the end of the 10-year term, plaintiff could refinance the loan with a new 20-year loan. The court held that the oral agreement plaintiff alleged was barred by the statute of frauds, and was in any event too indefinite to be enforced.

TRESPASS

Madani v. Rabinowitz

(2020) 45 Cal.App.5th 602

In this trespass and nuisance action, the court affirmed the trial court’s conclusion that defendant’s fence and parked cars were continuing encroachments and affirmed the trial court’s order of their removal. Because the encroachments were continuing, and not permanent, plaintiff’s trespass and nuisance claims were not time-barred under the 3-year statute of limitations in C.C.P. Section 338(b). The crucial test of the permanency of a trespass or nuisance is whether it can be abated. The cost of \$5,000 to \$6,000 to move the fence was not sufficient to regard the fence as a permanent installation.

TRESPASS (cont.)

Russell v. Man

(Nov. 17, 2020, No. E072266) ___ Cal. App.5th___ [2020 Cal. App. LEXIS 1179].)

The court held that Civil Code Section 3346 (treble damages for injury to a tree when defendant intentionally trespasses on plaintiff's property) does not apply where the tree died because defendant cut the roots of the tree on his own property. Defendant is liable to plaintiff only for the value of the tree, not compounded by treble damages.

TRUSTEE'S SALES

Matson v.

S.B.S. Trust Deed Network

(2020) 46 Cal.App.5th 33

Plaintiffs were the purchasers at a trustee's sale. They bid far more than the property was worth due to mistakenly thinking that the deed of trust being foreclosed was in first position when it was, instead, in second position. The court refused to allow plaintiffs to rescind the sale because they were not entitled to relief under the common law principle of a unilateral mistake of fact. The following grounds are necessary in order to establish rescission based upon unilateral mistake: (1) the plaintiff made a mistake regarding a basic assumption upon which the plaintiff made the contract; (2) the mistake has a material effect upon the agreed exchange of performances that is adverse to the plaintiff; (3) the plaintiff does not bear the risk of the mistake; and (4) the effect of the mistake is such that enforcement of the contract would be unconscionable. Here, plaintiffs were not able to establish the third element because their failure to adequately investigate the title to the property was not reasonable and they, therefore, bore the risk of a mistake.

Williams v. 21st Mortgage Corp.

(2020) 44 Cal.App.5th 495. Modified and decertified for publication, 2020 Cal. App. Unpub. LEXIS 1213 (Cal. App. 1st Dist., Feb. 20, 2020). Review denied 2020 Cal., LEXIS 3878 (Cal., June, 10, 2020)

Defendant violated Civil Code Section 2924c(a) by foreclosing on plaintiff's home after demanding not only the approximately \$3,000 of post-bankruptcy Chapter 13 arrears, but also the \$20,000 subject to the bankruptcy plan, as to which plaintiff was up-to-date on her payments.

Zieve, Brodnax & Steele, LLP v. Dhindsa

(2020) 55 Cal.App.5th 727

In this case, a foreclosing creditor held a first deed of trust and was satisfied in full by the foreclosure sale proceeds. The claimants to the surplus funds were (1) the holder of a second deed of trust granted by the owners of an undivided 75 percent interest in the real property and (2) the owner of the undivided 25 percent interest that was not encumbered by the second deed of trust. The court held that the owner of the unencumbered 25 percent interest and the holder of the second deed of trust were each entitled to their proportionate shares of surplus proceeds.

TRUSTS

Barefoot v. Jennings

(2020) 8 Cal.5th 822

The court held that if amendments to a revocable trust made before the settlor dies disinherit a beneficiary, that individual has standing to challenge the validity of the disinheriting amendments in probate court on grounds such as incompetence, undue influence, or fraud.

WATER RIGHTS

City of Santa Maria v. Adam

(2019) 43 Cal.App.5th 152

This is the third appeal concerning the rights to groundwater contained in the Santa Maria Valley Groundwater Basin. The last appeal was in *City of Santa Maria v. Adam* (2016) 248 Cal.App.4th 504, where the court determined that quantification of the proportionate prescriptive loss attributable to each of the landowners' respective parcels was unnecessary and upheld the judgment quieting title to landowners' overlying rights to native groundwater.

Here, the trial court denied the landowners' motion to clarify that the judgment protects their overlying rights from future prescription. The court of appeal reversed the denial on the merits, finding that the issue was not ripe because prescriptive rights can arise only in times of overdraft of the water supply, and there was no evidence that such an overdraft situation currently exists.

Modesto Irrigation Dist. v. Tanaka

(2020) 48 Cal.App.5th 898. Review and publication request denied, 2020 Cal. LEXIS 5479 (Cal., Aug. 19, 2020)

Defendant's great-grandfather purchased a subdivided parcel that had been part of a larger riparian tract but was no longer contiguous to a river. The deed in this case included the statement "together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof". The question presented for the Court of Appeal's review was whether the parties intended the grantee to receive riparian rights in such a transfer. The court held that this language in the deed indicated that the grantor intended that the farm would retain its riparian rights even when it no longer remained contiguous to the river.

NEW CASES INDEX BY CASE NAME

CASE NAME	PAGE NUMBER
<i>Adams v. Bank of America, N.A.</i>	14
<i>Barefoot v. Jennings</i>	17
<i>Carmel Development Co., Inc. v. Anderson</i>	16
<i>City of Santa Maria v. Adam</i>	18
<i>Gamerberg v. 3000 E. 11th St., LLC</i>	15
<i>Huang v. Wells Fargo Bank, N.A.</i>	16
<i>In re Brace</i>	14
<i>In re Marriage of Mohler</i>	14
<i>Madani v. Rabinowitz</i>	16
<i>Matson v. S.B.S. Trust Deed Network</i>	17
<i>McDermott Ranch, LLC v. Connolly Ranch, Inc</i>	14
<i>Modesto Irrigation Dist. v. Tanaka</i>	18

CASE NAME	PAGE NUMBER
<i>Reeder v. Specialized Loan Servicing LLC</i>	16
<i>Reuter v. Macal</i>	16
<i>Robin v. Crowell</i>	15
<i>Russell v. Man</i>	17
<i>Tiburon/Belvedere Residents United to Support Trails v. Martha Co.</i>	15
<i>Vasquez v. LBS Financial Credit Union</i>	16
<i>Weimer v. Nationstar Mortgage, LLC</i>	15
<i>WFG National Title Ins. Co. v. Wells Fargo Bank, N.A.</i>	14
<i>Williams v. 21st Mortgage Corp</i>	17
<i>Zieve, Brodnax & Steele, LLP v. Dhindsa</i>	17

NEW CASES INDEX BY TOPIC

<p>AGREED BOUNDARIES <i>McDermott Ranch, LLC v. Connolly Ranch, Inc</i> 14</p>	<p>TRESPASS <i>Madani v. Rabinowitz</i>..... 16</p>
<p>COMMUNITY PROPERTY <i>In re Brace</i>..... 14 <i>In re Marriage of Mohler</i>..... 14</p>	<p>TRESPASS / INJURY TO TREES <i>Russell v. Man</i> 17</p>
<p>FORGERY <i>WFG National Title Ins. Co. v.</i> <i>Wells Fargo Bank, N.A.</i>..... 14</p>	<p>TRUSTEE’S SALES <i>Matson v. S.B.S. Trust Deed Network</i>..... 17 <i>Williams v. 21st Mortgage Corp.</i>..... 17 <i>Zieve, Brodnax & Steele, LLP v. Dhindsa</i>..... 17</p>
<p>HOMEOWNERS BILL OF RIGHTS <i>Adams v. Bank of America, N.A.</i>..... 14</p>	<p>TRUSTS <i>Barefoot v. Jennings</i> 17</p>
<p>IMPLIED DEDICATION <i>Tiburon/Belvedere Residents United to Support Trails v.</i> <i>Martha Co.</i> 15</p>	<p>WATER RIGHTS <i>City of Santa Maria v. Adam</i>..... 18 <i>Modesto Irrigation Dist. v. Tanaka</i> 18</p>
<p>IRREVOCABLE LICENSE <i>Gamerberg v. 3000 E. 11th St., LLC</i>..... 15</p>	
<p>JUDICIAL FORECLOSURE <i>Robin v. Crowell</i>..... 15</p>	
<p>LOAN MODIFICATIONS <i>Weimer v. Nationstar Mortgage, LLC</i>..... 15</p>	
<p>MECHANICS LIENS <i>Carmel Development Co., Inc. v. Anderson</i>..... 16</p>	
<p>QUIET TITLE <i>Huang v. Wells Fargo Bank, N.A.</i>..... 16 <i>Reuter v. Macal</i>..... 16</p>	
<p>RECORDING / CONSTRUCTIVE NOTICE <i>Vasquez v. LBS Financial Credit Union</i>..... 16</p>	
<p>STATUTE OF FRAUDS <i>Reeder v. Specialized Loan Servicing LLC</i>..... 16</p>	

CLTA LEGISLATIVE COMMITTEE (2020/21)

SHARI SCHNEIDER, CHAIR

Stewart Title Guaranty Company

TOM IMPERIALE, VICE CHAIR

First American Title Insurance Co.

STEPHEN ANDERSON

Fidelity National Title Group

KAZMER BERNATH

Stewart Title Guaranty Company

RANDALL BRADLEY

Placer Title Company

DAN BUCHANAN

First American Title Insurance Co.

WILL CHOY

Old Republic Title Company

ALICE TSAI CHUANG

WFG National Title Insurance Co.

JAMES DUNCAN

Fidelity National Title Group

MARY FRENCH

Placer Title Company

GREG HERRINGTON

Fidelity National Title Group

TREVOR JOYNER

Bidwell Title & Escrow Company

MARGERY LEE

States Title / NATC / NATIC

CYNTHIA LONG

Old Republic Title Company

GARY McMILLAN

First American Title Company

JAMES NELSON

First American Title Company

RICK NELSON

Stewart Title Guaranty Company

TIMOTHY REARDON

Old Republic Title Company

KEVIN SACHS

Equity Title Company

LISA STEELE

Placer Title Company

ROGER THERIEN

Old Republic Title Company

STEVE TJADEN

Old Republic Title Company

MICKEY VANDENBERG

North American Title Company

CLTA LEGISLATIVE COMMITTEE FUNCTIONS

The CLTA Legislative Committee is established in the Bylaws. It is a 23 member committee which devotes approximately 588 volunteer hours per year in support of this Association.

The purpose of the Legislative Committee is to review and make recommendations with respect to legislative matters that may have an impact on the conduct of the business of title insurance in this state.

The Legislative Committee is charged with the following responsibilities: to review the write ups for the annual Summary of Legislation; to refer legislation to the Forms and Practices Committee for Manual or practice changes; to review legislative proposals; to report significant legislation to the Board of Governors; to determine which legislation the CLTA should sponsor; and to review and determine CLTA positions on all legislation.

CLTA STAFF

CRAIG C. PAGEExecutive Vice President
and Counsel
cp@clta.org**CYNTHIA GROOM**Controller
and Membership Coordinator
cg@clta.org**ANTHONY HELTON**Legislative Coordinator
aj@clta.org**HEATHER STARKEY**Education
and Meetings Coordinator
hs@clta.org

The latest title industry educational content,
free and on-demand for CLTA members.



CLTA Titlecast Episodes Now Available:

Episode 1: Basic Easement & Access Issues

Episode 2: Death & Title: Estates of Decedents and Probate Issues

Streaming now for CLTA members at: www.clta.org/Titlecast



THE 2021 CLTA DIRECTORY OF MEMBERS...

Available in January, 2021

For Ordering Information:

Please visit the CLTA's website at

www.clta.org and go to the "Online Store" section to order your copy today.

