

2023 SUMMARY OF LEGISLATION



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EDITOR'S NOTE

Of the 890 bills signed into law in 2023, 18 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, 2023-24 Session" link. All bills summarized in this publication become effective January 1, 2024, 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

- **Recorded Restrictions**
- **Separate Conveyance of Accessory Dwelling Units**

Existing law establishes the CalHome Program, administered by the Department of Housing and Community Development (HCD), to support existing homeownership programs aimed at lower and very low income households, among other purposes. Under the program, funds may be used to enable low- and very low income households to become or remain homeowners, and to provide disaster relief assistance to households at or below 120% of that area median income. Existing law also authorizes HCD to make grants to local agencies or nonprofit corporations to construct accessory dwelling units and to repair, reconstruct, or rehabilitate, in whole or in part, accessory dwelling units and junior accessory dwelling units.

This act specifies that for home ownership development projects that include construction of accessory dwelling units or junior accessory dwelling units, neither the CalHome Program nor any administrative rule or guideline implementing the CalHome Program precludes those dwelling units from being separately conveyed to separate lower income households on separate parcels created pursuant to specified law.

Existing law authorizes loan funds to be used for the purchase of real property, site development, predevelopment, construction period expenses incurred on home ownership development projects, and permanent financing for mutual housing or cooperative developments.

This act requires units within home ownership development projects that receive CalHome Program funds to initially be sold to and occupied by a lower income household and be subject to a recorded covenant, with a term of at least 30 years, which contains one or more specified provisions, including a resale restriction.

This act requires HCD to implement the changes made by the act into program guidelines and notices of funding availability released after December 31, 2024.

Chapter 746 (AB 671 – Ward); amending Section 50650.3 of the Health and Safety Code.

- **Prohibition on ADU Owner-Occupancy Requirements**

The Planning and Zoning Law, among other things, provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards

and conditions. Existing law requires a local ordinance to require an accessory dwelling unit to be either attached to, or located within, the proposed or existing primary dwelling, as specified, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

Existing law authorizes a local agency to require an accessory dwelling unit to be used for rentals of terms longer than 30 days.

This act, instead, authorizes a local agency to require terms that are 30 days or longer.

Existing law, beginning January 1, 2025, authorizes a local agency to impose an owner-occupancy requirement on an accessory dwelling unit, provided that the accessory dwelling unit was not permitted between January 1, 2020, and January 1, 2025.

This act instead prohibits a local agency from imposing an owner-occupancy requirement on any accessory dwelling unit.

Chapter 751 (AB 976 – Ting); amending Section 65852.2 of the Government Code.

- **Separate Sale or Conveyance of Accessory Dwelling Units**

Existing law, the Planning and Zoning Law, authorizes a local agency, by ordinance or ministerial approval, to provide for the creation of accessory dwelling units in areas zoned for residential use. Existing law requires the ordinance to include specified standards, including prohibiting the accessory dwelling unit from being sold or otherwise conveyed separate from the primary residence, except as provided by a specified law.

Existing law, notwithstanding the prohibition described above, requires a local agency to allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if certain conditions are met, including that the property was built or developed by a qualified nonprofit corporation and that the property is held pursuant to a recorded tenancy in common agreement that meets specified requirements.

This act authorizes a local agency to adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums, and makes conforming changes.

This act incorporates additional changes to Section 65852.2 of the Government Code proposed by AB 976 (Ch. 751, Statutes of 2023).

Chapter 752 (AB 1033 – Ting); amending Sections 65852.2 and 65852.26 of the Government Code.

ACCESSORY DWELLING UNITS (cont.)

- **Preapproved ADU Plans**

Existing law, the Planning and Zoning Law, authorizes a local agency, by ordinance or ministerial approval, to provide for the creation of accessory dwelling units in areas zoned for residential use, as specified. Existing law authorizes a local agency to impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, and maximum size of a unit.

This act requires each local agency, by January 1, 2025, to develop a program for the preapproval of accessory dwelling unit plans, whereby the local agency accepts accessory dwelling unit plan submissions for preapproval and approves or denies the preapproval applications. The act authorizes a local agency to charge a fee to an applicant for the preapproval of an accessory dwelling unit plan. The act requires a local agency to post preapproved accessory dwelling unit plans and the contact information of the applicant on the local agency's internet website. The act requires a local agency to either approve or deny an application for a detached accessory dwelling unit within 30 days that utilizes either an accessory dwelling unit plan preapproved by the local agency within the current triennial California Building Standards Code rulemaking cycle or a plan that is identical to a plan used in an application for a detached accessory dwelling unit approved by the local agency within the current triennial California Building Standards Code rulemaking cycle.

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

Chapter 759 (AB 1332 – Juan Carrillo); adding Section 65852.27 to the Government Code.

CC&Rs

- **Restrictive Covenant Modifications**

Existing law permits a person who holds or is acquiring an ownership interest of record in property that the person believes is the subject of an unlawfully restrictive covenant based on, among other things, the number of persons or families who may reside on the property, to record a restrictive covenant modification. Existing law entitles the owner of an affordable housing development to establish that an existing restrictive covenant is unenforceable by submitting a restrictive covenant modification document that modifies or re-

moves any existing restrictive covenant language. Before recording the modification document, existing law requires the owner to submit to the county recorder a copy of the original restrictive covenant and any documents the owner believes necessary to establish that the property qualifies as an affordable housing development for purposes of these provisions. As part of this process, existing law requires the county counsel to determine, among other things, if the property qualifies as an affordable housing development and if a modification document may be recorded. If the county counsel has authorized the county recorder to record the modification document, that authorization is required to be noted on the face of the modification or on a cover sheet affixed to it.

This act requires the county recorder to notify the owner or submitting party of the county counsel's determination without delay, so that notice may be given by the owner regarding the authorization to record the modification document. The act permits the owner, upon receipt of that notification, to mail copies of the modification documents and related materials by certified mail to anyone who the owner knows has an interest in the property or the restrictive covenant. The act also establishes a process by which notice by the owner to the intended recipient would be deemed given. The act provides that notice by the owner is optional and failure to provide it does not invalidate a recorded restrictive covenant modification document.

Existing law prohibits the county recorder from recording the modification document if the county counsel finds that the original restrictive covenant document does not contain a prohibited restriction, or if the county counsel finds that the property does not qualify as an affordable housing development.

This act additionally prohibits the owner from recording the modification document if the owner of the property is not yet its record title owner but is instead a beneficial owner, until the owner closes escrow on the property and becomes its record title owner. For purposes of these provisions, the act defines "owner" to mean any record title owner of the property, beneficial owner of the property, or individual controlling the property for purposes of developing an affordable housing project.

Existing law requires the county recorder to charge a standard recording fee to an owner who submits a modification document for recordation pursuant to these provisions.

This act, instead, authorizes the county recorder to charge the above-described standard recording fee.

This act additionally requires a suit that challenges the validity of a restrictive covenant modification document that is filed by a party that has been given notice as described above to be filed within 35 days of that notice. The act makes conforming changes to these provisions.

Chapter 750 (AB 911 – Schiavo); amending Section 714.6 of the Civil Code.

COURT PROCEEDINGS

- **Arbitration**
- **Civil Procedure**

Existing law authorizes a party to appeal, among other things, an order dismissing or denying a petition to compel arbitration. Existing law generally stays proceedings in the trial court on the judgment or order appealed from when the appeal is perfected, subject to specified exceptions.

This act provides that, notwithstanding the general rule described above, trial court proceedings would not be automatically stayed during the pendency of an appeal of an order dismissing or denying a petition to compel arbitration.

Chapter 710 (SB 365 – Wiener); amending Section 1294 of the Code of Civil Procedure.

DISCLOSURES

- **Single-Family Residential Property Disclosures**
- **Transfer of Single-Family Residential Property**

Existing law requires that specified disclosures be made upon any transfer by sale, exchange, real property sales contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any single-family residential property. Existing law, after July 1, 2022, requires that every contract for the sale of single-family residential real property contain a notice stating that any appraisal of the property is required to be unbiased, objective, and not influenced by improper or illegal considerations.

This act requires a seller of a single-family residential property who accepts an offer for the sale of the single-family residential property within 18 months from the date that title for the single-family residential property was transferred to the seller to disclose to the buyer specified information, including any room additions, structural modifications, other alterations, or repairs made to the property since title to the property was transferred to the seller that were performed by a contractor and the name of each contractor with whom the seller entered into a contract with for the room additions, structural modifications, other alterations, or repairs, as specified. The act alternatively authorizes a seller to satisfy these obligations by providing a list of room additions, structural modifications, other alterations, or repairs performed by, and provided by, the contractor with whom the seller contracted for the room additions, structural modifications, other alterations, or repairs.

This act requires the seller to provide a copy of any permit for any room additions, structural modifications, other alterations, or repairs to the buyer or, if the seller contracted with a third party and was not provided with a copy of the permits,

by informing the buyer that information on permits may be obtained from a third party and providing the third party's contact information. The act specifies that these provisions apply to the sale of a single-family residential property where the seller accepts an offer from a buyer to purchase the property on or after July 1, 2024.

Chapter 95 (AB 968 – Grayson); adding Section 1102.6b to the Civil Code.

HOUSING

- **Unbundling of Parking from Rent Pricing**

Existing law prohibits an owner of residential real property from, over the course of any 12-month period, increasing the gross rental rate for a dwelling or a unit more than 5% plus the percentage change in the cost of living, or 10%, whichever is lower, of the lowest gross rental rate charged for that dwelling or unit at any time during the 12 months before the effective date of the increase.

This act requires the owner of qualifying residential property that provides parking with the qualifying residential property to unbundle parking from the price of rent. The act defines “unbundled parking” as the practice of selling or leasing parking spaces separate from the lease of the residential use. The act defines “qualifying residential property” as any dwelling or unit that is intended for human habitation that (1) is issued a certificate of occupancy on or after January 1, 2025, (2) consists of 16 or more residential units, and (3) is located within the County of Alameda, Fresno, Los Angeles, Riverside, Sacramento, San Bernardino, San Joaquin, Santa Clara, Shasta, or Ventura.

The act provides a tenant of a qualifying residential property with a right of first refusal to parking spaces built for their unit. The act prohibits a tenant's failure to pay the parking fee of a separately leased parking agreement from forming the basis of any unlawful detainer action against the tenant. The act authorizes a property owner, if a tenant fails to pay by the 45th day following the date payment is owed for a separately leased parking space, to revoke that tenant's right to lease that parking spot. The act exempts certain properties from these provisions, including residential properties with individual garages that are functionally a part of the property and housing developments where 100% of the units, exclusive of any manager's unit or units, are restricted as affordable housing for persons and families of low or moderate income.

This act makes legislative findings and declarations as to the necessity of a special statute for the Counties of Alameda, Fresno, Los Angeles, Riverside, Sacramento, San Bernardino, San Joaquin, Santa Clara, Shasta, and Ventura.

Chapter 757 (AB 1317 – Wendy Carrillo); adding Section 1947.1 to the Civil Code.

HOUSING (cont.)

- **Adaptive Reuse of Affordable Housing Development Projects**

Existing law requires the Department of Housing and Community Development to give priority with respect to funding under the Multifamily Housing Program to projects that prioritize adaptive reuse in existing developed areas served with public infrastructure, as specified. Existing law, the Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project, as defined for purposes of the act, for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. That act states that it shall not be construed to prohibit a local agency from requiring a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need, except as provided. That act further provides that a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

Under this act, a housing development that is, among other requirements, an extremely affordable adaptive reuse project on an infill parcel that is not located on or adjoined to a site where more than one-third of the square footage on the site is dedicated to industrial use would be an allowable use. The act authorizes a local agency to impose objective design review standards. The act also authorizes a local agency to deny the project if it is proposed to be located on a site or adjoined to any site where any of the square footage on the site is dedicated to industrial use and the local agency makes written findings that approving the development would have an adverse effect on public health and safety.

The act provides that for purposes of the Housing Accountability Act, a proposed housing development project is consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if the housing development project is consistent with the standards specified in these provisions. The act requires a local agency to determine whether the proposed development meets those standards within specified timeframes.

The act defines an “extremely affordable adaptive reuse project” for these purposes to mean a multifamily housing development project that involves retrofitting and repurposing of a residential or commercial building that currently allows temporary dwelling or occupancy, and that meets specified af-

fordability requirements, including that 100% of the units be dedicated to lower income households, 50% of which shall be dedicated to very low income households.

This act requires a local source of funding that can be used for the development of affordable housing to include adaptive reuse as an eligible project and prohibit an agency with control of a local source of funding from prohibiting or excluding a development proposal that uses an adaptive reuse model for an affordable housing project development solely on the basis that the proposal is for an adaptive reuse project.

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

Chapter 764 (AB 1490 – Lee); adding Sections 65913.12 and 65960.1 to the Government Code.

LIENS

- **Oil and Gas Well Administrative and Enforcement Cost Recovery Liens**

This act makes various changes to existing law relating to the Geologic Energy Management Division's (CalGEM) authority to seek injunctive relief, cease and desist specified activities, and recoup administrative and enforcement costs.

Of particular interest to title companies, this act authorizes CalGEM to impose a lien against the real or personal property of an operator, owner, or property owner in an amount equal to an accurate account of the expenditures made to secure an oil or gas site. The act requires CalGEM's accounting of actual costs to perform work ordered to be served upon the operator by personal service or certified mail.

Chapter 337 (AB 631 – Hart); amending Section 338.1 of the Code of Civil Procedure, and amending Sections 3224, 3236, and 3236.5 of, and adding Sections 3224.5, 3236.2, 3236.3, and 3236.6 to, the Public Resources Code.

NOTARIES PUBLIC

- **Improved Interstate Recognition of Notarial Acts**
- **Remote Online Notarization**

This act, beginning January 1, 2024, updates the language in statutes governing out-of-state notarial acts, and adds provisions to give effect to a notarial act, including remote online notarizations, performed in another state, under the authority and within the jurisdiction of a federally recognized Indian tribe, under federal law, or under the authority and within the...

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NOTARIES PUBLIC (cont.)

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...jurisdiction of a foreign state, as if it were performed by a notarial officer of this state, if specified conditions are met.

This act also, commencing on January 1, 2025, specifies that remote online notarization platform providers, defined as businesses that provide a software platform for use by a notarial officer not in the physical presence of the principal to communicate with the principal to a transaction, enable the performance of a remote online notarial act, and record the performance of the remote online notarial act, consent to the jurisdiction of the courts of California for transactions related to an individual for whom a remote online notarial act is performed who has represented to the business that they are located in California. For these transactions, the act requires remote online notarization platform providers, as defined, to comply with specified requirements, including creating an encrypted electronic journal entry for each remote online notarial act and an audio-video recording of the audio-video communication of each remote online notarial act facilitated by the business. The act also requires remote online notarization platform providers, as defined, to provide the principal with a copy of each relevant electronic journal entry and audio-video recording following the completion of a transaction in the most expedient time possible. The act also creates a civil cause of action against a business for a violation of those laws.

With respect to California notaries, this act states that a California notary public shall not provide online notarization for any principal, and an online notarization platform shall not be authorized for use by a California notary public, until the earlier of the following:

1) Certification by the Secretary of State on its internet website that the Secretary of State's technology project necessary to implement statutes related to online notarization is complete, or;

2) January 1, 2030, unless the Secretary of State informs the Legislature and the Governor in writing on or before January 1, 2029, that the technology project necessary to implement statutes related to online notarization will not be completed by January 1, 2030, including a detailed status of the technology project.

This act authorizes, upon the completion of the aforementioned technology project and the issuance of related rules and regulations by the Secretary of State, a notary public or an applicant for appointment as a notary public to apply for registration with the Secretary of State to be a notary public authorized to perform online notarizations by submitting an application that meets certain requirements. The act also requires an entity to register with the Secretary of State as an online notarization platform or depository before providing an online notarization system or depository to an online notary public. The act requires a representative of an online notarization platform to certify compliance with applicable laws under penalty of perjury. The act also creates a civil cause of action

against an online notarization platform or depository for a violation of those laws. The act requires the Secretary of State to develop an application for registration and establish rules to implement the act.

This act also authorizes the Secretary of State to charge an applicant a fee for an application for registration in an amount necessary to administer the act's provisions related to online notarizations. The act authorizes an online notary public to perform notarial acts and online notarizations by means of audio-video communication. The act specifies that any state law requirement that a principal, as defined, appear before or in the presence of the notary public shall be satisfied by appearing by means of audio-video communication before a notary public authorized to perform online notarization in compliance with specified requirements. The act establishes various requirements applicable to an online notary public, including requiring an online notary public to record each online notarial act performed by the notary public in one tangible sequential journal and one or more secure electronic journals requiring an electronic notarial certificate to be in a specified form that is required to be signed under penalty of perjury, and requiring an online notary public to take all necessary measures to disable the electronic affixation of the notary public's electronic signature or seal upon termination of a commission. The act requires a manufacturer or vendor of the notary public's electronic seal to apply to the Secretary of State to be assigned an identification number.

This act establishes various requirements applicable to an online notarization platform, including prohibiting an online notarization platform or depository from accessing, using, sharing, selling, disclosing, producing, providing, releasing, transferring, disseminating, or otherwise communicating the contents of an online notarial act, with specified exceptions. The act also makes other conforming changes. The act imposes requirements for ensuring the security of an electronic signature or electronic seal and makes a violation of those provisions subject to civil penalties. The act also makes a violation of those provisions grounds for refusal or revocation of a commission as a notary public.

This act makes it a misdemeanor for any person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling an online notary public to affix an official electronic signature or seal. The act makes it a misdemeanor for an online notary public to willfully fail or refuse to either retain the electronic journal for 10 years after the performance of the last notarial act chronicled in the electronic journal or deliver all notarial records and papers to the Secretary of State within 30 days of when the online notary public resigns, is disqualified, is removed from office, or allows the online notary public's registration to expire.

Chapter 291 (SB 696 – Portantino); a mending Sections 1182 and 1183 of, and adding, repealing, and adding Section 1181.1 of, the Civil Code, and amending Sections 8207.4 and 8214.1 of, adding the heading of Article 1 (commencing with Section 8200) to, and adding Articles 2 (commencing with Section 8231) and 3 (commencing with Section 8232) to, Chapter 3 of Division 1 of Title 2 of, the Government Code.

PRIVACY

- **California Consumer Privacy Act / California Privacy Rights Act**
- **Definition of “Sensitive Personal Information”**

The California Consumer Privacy Act of 2018 (CCPA) grants to a consumer various rights with respect to personal information, as defined, that is collected by a business, as defined, including the right to direct a business that collects sensitive personal information about the consumer to limit its use of the consumer’s sensitive personal information to that use which is necessary to perform the services or provide the goods reasonably expected by an average consumer who requests those goods or services, to perform certain other services, and as authorized by certain regulations. The CCPA defines “sensitive personal information” to mean personal information that reveals, among other things, a consumer’s racial or ethnic origin, religious or philosophical beliefs, or union membership. The California Privacy Rights Act of 2020, approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, amended, added to, and reenacted the CCPA.

This act defines “sensitive personal information” for purposes of the CCPA to additionally include personal information that reveals a consumer’s citizenship or immigration status.

Chapter 551 (AB 947 – Gabriel); amending Section 1798.140 of the Civil Code.

PROPERTY TAXATION

- **Base Year Value Transfers**
- **Change of Ownership**

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred.

Existing law, pursuant to the California Constitution, beginning on or after February 16, 2021, also known as the intergenerational transfer exclusion, excludes from the term “change in ownership” purchases or transfers, if certain conditions are met, between parents and their children or between grandparents and their grandchildren of real property that is the principal residence, or is a family farm.

This act provides that if a transfer of a mobilehome park or floating home marina is excluded from a change of ownership under existing law, but the park or floating home marina

has not been converted to a condominium, stock cooperative ownership, or limited equity cooperative ownership, then any transfer of shares of the voting stock of, or other ownership or membership interests in, the entity that acquired the park or floating home marina is a change in ownership of a pro rata portion of the real property of the park or floating home marina, unless the transfer is excluded from change in ownership pursuant to the intergenerational transfer exclusion under existing law.

Existing property tax law allows the transfer of the base year value of a qualified contaminated property to a comparable replacement property of equal or lesser value under specified circumstances. Existing law also allows, beginning on and after April 1, 2021, an owner who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster to transfer the taxable value of a primary residence eligible for either the homeowner’s exemption or the disabled veteran’s exemption to a replacement primary residence, located anywhere in this state and regardless of value, that is purchased or newly constructed as that person’s principal residence within 2 years of the sale of the original primary residence (age, disability, and disaster base year value transfer).

This act authorizes the application of the qualified contaminated property base year value transfer provisions if the sale or transfer of the original property results in a base year value determined in accordance with the age, disability, and disaster base year value transfer because the property qualifies under that age, disability, and disaster base year value transfer. The act prohibits the application of the qualified contaminated property base year value transfer provisions if the owner or owners of the original property sign a claim under the intergenerational transfer exclusion allowing the base year value to stay with the original property. The act also makes nonsubstantive changes to the age, disability, and disaster base year value transfer provisions.

NOTE: This act took effect immediately as a tax levy on October 4, 2023.

Chapter 312 (SB 890 – Committee on Governance and Finance); amending Sections 62.1, 62.5, 69.4, and 69.6 of the Revenue and Taxation Code.

PUBLIC RECORDS

- **Non-Title Recorded Agreements for Personal Services (NTRAPS)**
- **Recorded Documents**
- **Residential Exclusive Listing Agreements Act**

Existing law imposes limitations on various contracts, including by prohibiting a contract or proposed contract for the provision of a consumer service by a licensee regulated by a...

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PUBLIC RECORDS (cont.)

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...licensing board from including a provision limiting the consumer's ability to file a complaint with that board or to participate in the board's investigation into the licensee.

Existing law, the Consumers Legal Remedies Act, makes unlawful specified unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or that results in the sale or lease of goods or services to any consumer, including the passing off of goods or services as those of another. The act authorizes any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared as unlawful under the act to bring an action against that person to recover or obtain certain remedies.

Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers and salespersons by the Real Estate Commissioner, the chief officer of the Department of Real Estate within the Business, Consumer Services, and Housing Agency. A willful violation of this law and other related real estate provisions is a crime.

This act enacts the Residential Exclusive Listing Agreements Act. The act makes it unlawful for an exclusive listing agreement regarding single-family residential property to last longer than 24 months from the date the agreement was made. The act also makes it unlawful for a renewal of an exclusive listing agreement to last longer than 12 months from the date the renewal was made.

This act makes it unlawful to present for recording or filing, or otherwise attempt to record or file, with a county recorder an exclusive listing agreement of any duration or any memoranda or notice of the agreement. The act prohibits an exclusive listing agreement from renewing automatically and requires a renewal of an exclusive listing agreement to be in writing and be dated and signed by all parties to the agreement. The act makes it unlawful to enforce or attempt to enforce an exclusive listing agreement that is made, or that is presented for recording or filing with a county recorder, in violation of these provisions.

This act provides that an exclusive listing agreement that is made, or that is presented for recording or filing with a county recorder, in violation of the above-described provisions is void and unenforceable. The act provides that a violation of the above-described provisions constitutes a violation under the Consumers Legal Remedies Act. The act authorizes a homeowner who entered into any such agreement to retain any consideration received. The act provides that a violation of these provisions by a licensed person is also a violation of the person's licensing law.

Existing law requires the county recorder to accept, upon payment of proper fees and taxes, for recordation certain instruments, papers, notices, or other documents. Existing law provides that a recorder is liable to an aggrieved party for the amount of damages if the recorder, among other things, neglects

or refuses to record the instrument, paper, or notice within a reasonable time after receiving it, unless the document is unrecordable. Under existing law, a person who receives a form from the recorder determining the document is unrecordable is guilty of a misdemeanor if the person attempts to subsequently record the unrecordable document without an order from the court requiring recordation of the document.

This act makes it unlawful to present for recording or filing, or otherwise attempt to record or file, with a county recorder an exclusive listing agreement of any duration or any memoranda or notice of such an agreement. The act states that a violation of this prohibition constitutes a violation of the above-described provisions. The act also provides that a violation of these provisions by a licensed person is also a violation of the person's licensing law.

Chapter 577 (AB 1345 - Hart); adding Section 1670.12 to the Civil Code, and adding Section 27280.6 to the Government Code.

• Secretary of State Address Confidentiality Program

Existing law authorizes victims of domestic violence, sexual assault, stalking, human trafficking, and elder or dependent adult abuse, and members of their households, to complete an application to be approved by the Secretary of State for the purpose of enabling state and local agencies to respond to requests for public records without disclosing a program participant's changed name or location, subject to specified conditions. Existing law makes it a misdemeanor for any person to make a false statement in an application.

This act, beginning on July 1, 2024, makes victims of child abduction and members of their households eligible for the protections of this address confidentiality program.

Chapter 642 (AB 243 - Alanis); amending the heading of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of, and amending, repealing, and adding Sections 6205, 6205.5, 6206, 6208.5, 6209.5, and 6209.7 of, the Government Code.

REVOCABLE TRANSFER ON DEATH DEEDS

- Operation of Conflicting Instruments in Property Disposal
- Transfer of Separate Interests in Stock Cooperatives by Revocable Transfer on Death Deeds

Existing law, until January 1, 2032, governs the execution, revocation, and effectiveness of a revocable transfer on...

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REVOCABLE TRANSFER ON DEATH DEEDS (cont.)

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...death deed (RTODD), which is an instrument that makes a donative transfer of real property to a named beneficiary that becomes operative on the transferor's death, but remains revocable until the transferor's death. Under existing law, a separate interest in a stock cooperative is not real property that may be transferred by a RTODD.

This act authorizes the transfer of real property by RTODD even if ownership is not typically evidenced or transferred by use of a deed, and would authorize the transfer of an interest in a stock cooperative by RTODD subject to any limitation on the transferor's interest. If a stock cooperative exercises an option to purchase property transferred by RTODD on the transferor's death, the act specifies that the property is transferred to the stock cooperative and the purchase price is paid to the beneficiary. The act also makes conforming changes.

Existing law, until January 1, 2032, specifies that if a RTODD and another instrument purporting to dispose of the same property conflict, the RTODD is the operative instrument if the other instrument is not recorded within 120 days after an affidavit recorded for the property. If the other instrument is revocable and recorded within those 120 days, existing law specifies that the later executed instrument is operative, but if the other instrument is irrevocable and recorded within those 120 days, the other instrument is operative.

This act deletes the above-described recording requirements, and instead specifies that, if the other instrument is revocable, the later executed instrument is operative, and that the other instrument is operative if it is irrevocable.

Chapter 62 (AB 288 – Maienschein): amending Sections 5610, 5614, 5642, 5652, and 5660 of, and adding Section 5614.5 to, the Probate Code.

SUBDIVISIONS

- **Land Use**
- **Ministerial Approval of Subdivision Maps**

Existing law requires each city or county to adopt a general plan for the physical development of the city or county and authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties. Existing law also provides, pursuant to the Subdivision Map Act (SMA), related to the subdivision of land, requires a city or county to require a tentative and a final map for all subdivisions of land creating five or more parcels, and require a parcel map for subdivisions meeting specified conditions. Existing

law also allows a city or county to require a tentative map where only a parcel map is required.

Furthermore, existing law limits the improvements a city or county may require for a subdivision of land that is less than five parcels, and requires a legislative body of a city or county to deny approval of a tentative map or a parcel map if it makes any of the following findings:

- That the proposed map is not consistent with applicable general and specific plans.
- That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- That the site is not physically suitable for the type of development.

This act requires a local agency to ministerially consider, without discretionary review or a hearing, a parcel map or a tentative and final map for a housing development project that meets specified requirements. In this regard, the act requires the proposed subdivision to result in 10 or fewer parcels and the housing development project to, among other things, consist of 10 or fewer residential units, meet certain minimum parcel size and density requirements, and be located on a lot zoned for multifamily residential development that is no larger than five acres and is substantially surrounded by qualified urban uses. The act exempts the housing development project from certain requirements relating to minimum parcel size and dimensions and the formation of a homeowners' association, except as specified.

This act also requires a local agency to ministerially consider, without discretionary review or a hearing, an application for a housing development project on a lot that is subdivided pursuant to the provisions of the act described above. The act authorizes a local agency to impose on the housing development objective zoning standards, objective subdivision standards, or objective design standards that are related to a housing development or to the design or improvement of a parcel. However, the act prohibits a local agency from imposing on the housing development certain standards, including those that physically preclude the development of a project built to specified densities, impose a requirement that applies to a project solely or partially on the basis that the subdivision or housing development receives approval pursuant to the act's provision, or impose certain requirements related to parking, setbacks, or floor area ratios.

This act imposes streamlining requirements with regard to consideration of an application for a parcel map or a tentative and final map, or an application for a housing development project. Specifically, the act requires a local agency to approve or deny a completed application submitted to a local agency within 60 days from the date the local agency receives it. Under the act, if the local agency does not approve or deny the...

(Continued on Next Page...)

SUBDIVISIONS (cont.)

(Continued from Previous Page...)

...application within 60 days, the application would be deemed approved. If the local agency denies the application, the act requires the local agency, within 60 days of receipt of the application, to return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application.

This act also requires a local agency to issue a building permit for one or more residential units that are part of a housing development project consisting of 10 or fewer units on a lot proposed to be subdivided as part of a subdivision if the applicant meets certain requirements. In this regard, the act would require the applicant to have received a tentative map approval or parcel map approval for the subdivision, to have submitted a building permit application that the local agency deemed complete pursuant to a provision governing local agency review of posttitlement phase permit applications. The act authorizes a local agency to condition the issuance of the building permit on the applicant submitting a recorded covenant and agreement that conditions the issuance of the building permit on the recording of the final map.

Under this act, a local agency is not required to permit an accessory dwelling unit, junior accessory dwelling unit, or an urban lot split, on a parcel created through the exercise of the authority provided by the act.

Provisions of this act would not apply to a site that is located within a single-family residential horsekeeping zone designated in a specified master plan if the applicable local government has an adopted housing element that is compliant with applicable law.

This act makes related findings and declarations, including a finding that changes proposed by this act address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

NOTE: With the exception of a provision related to the exemption for a site located within a single-family residential horsekeeping zone designated in a specified master plan, which becomes operative on January 1, 2024, all of the above-described provisions of this act become operative on July 1, 2024.

Chapter 783 (SB 684 – Caballero); adding Sections 65852.28, 65913.4.5, and 66499.41 to the Government Code.

TRUSTS AND ESTATES

- **California Uniform Directed Trust Act**

Existing law establishes procedures for the creation, modification, and termination of a trust and regulates the administration of trusts by trustees on behalf of beneficiaries.

This act enacts the California Uniform Directed Trust Act to provide a method for regulating trusts where a person who is not a trustee has been given a role in directing the trust. The act requires the consent of the public administrator, public guardian, or public conservator before they are appointed to act as a trust director or directed trustee.

The act sets forth the duties and responsibilities of the trust director and the duties and responsibilities of the directed trustee, including specifying what powers may be given to a trust director and the information required to be exchanged by the trust director and the directed trustee. The act requires a directed trustee to take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction, except that the directed trustee is not required to comply with a trust director's exercise or nonexercise of a power of direction to the extent that, by complying, the trustee would engage in willful misconduct.

The act exempts from duties and liabilities under the act a trust director who is licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of the trust director's business or practice of a profession, to the extent the trust director acts in that capacity.

The act makes conforming changes to related provisions.

Chapter 721 (SB 801 – Allen); amending Sections 300 and 1304 of, and adding Chapter 6 (commencing with Section 16600) to Part 4 of Division 9 of, the Probate Code.

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**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.

EASEMENTS

Tariwala v. Mack

(2022) 84 Cal.App.5th 807 [300 Cal.Rptr.3d 51] (review den., Feb. 15, 2023)

When property is subject to an easement and both the dominant and servient tenements are subsequently acquired by the same person, the easement is normally extinguished because it is merged into the title (Civil Code Sections 805 and 811).

Here, however, defendant encumbered the dominant tenancy with a deed of trust that expressly referred to the easement simultaneously with acquiring sole ownership of the two parcels. He again encumbered it with deeds of trust two more times.

The deed of trust was subsequently foreclosed, and the property sold to plaintiff. The court refused to apply the doctrine of merger to extinguish the easement, holding that defendant never held the two properties in unity of title because of the deeds of trust.

The court also stated that even if defendant had established a unity of interest, the equitable component of the trial court's decision would have placed its decision on firm footing due to the profound prejudice to the lender's successors in interest.

Visitacion Investment, LLC v. 424 Jessie Historic Properties, LLC

(2023) 92 Cal.App.5th 1081 [310 Cal.Rptr.3d 263]

Abandonment of an easement created by grant requires proof of (1) the cessation of use of the easement by the owner of the dominant tenement and (2) unequivocal and decisive acts on the part of the dominant tenant, clearly showing an intention to abandon. The court held the intention to abandon was too ambiguous and set aside the trial court's granting of summary judgment that had ruled the easement was abandoned.

EQUITY LINES OF CREDIT

Piedmont Capital Management,

L.L.C. v. McElfish

(2023) 94 Cal.App.5th 961 [312 Cal.Rptr.3d 664] (review den., Nov. 15, 2023)

Plaintiff is the lender under a Home Equity Line of Credit (HELOC) agreement secured by a junior deed of trust that was foreclosed by a senior deed of trust. Accordingly, plaintiff was a "sold out junior" and brought this action to recover the debt. The court held that a borrower's duty to make a monthly payment under a HELOC is divisible from the borrower's duty to pay the full amount, so that the statute of limitations to recover the full amount is not necessarily triggered by a missed monthly payment. By setting a fixed maturity date for the full amount and leaving it to the discretion of the lender whether to accelerate that date necessarily contemplates that a breach as to a monthly payment does not constitute a breach as to the full amount.

FORECLOSURE

Shetty v. HSBC Bank USA, N.A.

(2023) 91 Cal.App.5th 796 [308 Cal.Rptr.3d 625]

The court held that a successor in interest who acquires title subject to a deed of trust has a right to cure a default under the loan and reinstate it.

LICENSE

Castaic Studios, LLC v. Wonderland Studios LLC

(Nov. 15, 2023, No. B325853) ___ Cal. App.5th___ [2023 Cal. App. LEXIS 879]

The court held that an unlawful detainer action is not available after a default when possession is held pursuant to a license agreement. Instead, a much slower trespass or ejectment action is necessary.

QUIET TITLE

Ridec LLC v. Hinkle

(2023) 92 Cal.App.5th 1182 [310 Cal.Rptr.3d 298] (rehg. den., July 27, 2023)

The court summarized: In *Tsasu v. U.S. Bank Trust* (2021) 62 Cal.App.5th 704 (*Tsasu*), this court construed one section of California's Quiet Title Act (Code Civ. Proc., Section 760.010 et seq.). Specifically, *Tsasu* confirmed that section 764.060 provides that a party acquiring title to property "in reliance" on a quiet title judgment retains its rights in that property - even if that judgment is subsequently invalidated as void - as long as the party is a "purchaser or encumbrancer for value" who lacked "knowledge of any defects or irregularities in the earlier quiet title judgment or the proceedings."

The court held that a trial court may not disregard the plain text of a statute or binding precedent in favor of its own view of what the law should be, and section 764.060 does not violate due process or deny equal protection of the law. Because the trial court also erred when, in the alternative, it applied section 764.060 to deprive a lender of its rights to property based on a later-invalidated quiet title judgment, we reverse the trial court's judgment and order that judgment be entered for the lender.

SUBDIVISION MAP ACT

Crescent Trust v. City of Oakland

(2023) 91 Cal.App.5th 850. (review granted, July 12, 2023)

Plaintiff's lot 18 was shown on a map recorded in 1869 and was one of 4 lots subsequently conveyed in a single deed. Plaintiff acquired Lot 18 along with lot 17 and a portion of lot 16. The court held that lot 18 is a legal lot and plaintiff is entitled to a certificate of compliance, even though Lot 18 was never separately conveyed.

TRUSTEE'S SALES

Homeward Opportunities Fund I

Trust 2019-2 v. Taptelis

(2023) 96 Cal.App.5th 299 (rehg. granted, Nov. 13, 2023)

Before a creditor with a money judgment may force the sale of a debtor's dwelling to satisfy that judgment, the creditor must, in addition to other procedures, obtain a court order authorizing the sale. (C.C.P. Section 704.750(a).) To obtain that court order, the creditor must file an application that includes, among other things, "[a] statement of the amount of any liens or encumbrances on the dwelling." (Section 704.760(c).) The court held that this requires the creditor to list liens on the property for unpaid real property taxes, even though those liens need not be recorded. Because the creditor's application in this case did not list the delinquent property taxes against the debtor's dwelling and went so far as to represent, under oath, that "there are no actual or purported liens or encumbrances" on the property, the trial court properly denied the creditor's application as deficient.

TRUSTS

Diaz v. Zuniga

(2023) 91 Cal.App.5th 916 [308 Cal.Rptr.3d 762]

The court held that where a trust requires that an amendment to the trust must be sent to the trustee by certified mail, the settlor must send the amendment by certified mail to himself where the settlor is also the trustee. Here, the settlor placed the amendment in a closet. The court found that the settlor's intentions were unclear because he may have placed the document in his closet to reflect on the proposed changes before finalizing them. That he did not do so by sending the document to himself by certified mail may indicate that he decided against the modifications.

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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.

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