



Alameda County  
**District Attorney's Office**  
Thomas J. Orloff, District Attorney

AGENDA \_\_\_\_\_ January 13, 2009

November 18, 2008

Honorable Board of Supervisors  
Administration Building  
Oakland, CA 94612

Dear Board Members:

**SUBJECT:** Resolution Imposing an Additional \$1 Fee on Real Estate Instrument  
Recording Fees for Real Estate Fraud Investigation and Prosecution

**RECOMMENDATION:**

It is requested that your Board adopt a resolution to increase the current fee for real estate fraud investigation and prosecution of \$2.00 to \$3.00, which will be collected at the time of recording of every real estate instrument, paper, or notice pursuant to Government Code Section 27388 (a). The increase shall be effective upon adoption of the resolution.

**DISCUSSION/SUMMARY:**

Senate Bill 1396, as enacted on September 27, 2008, will amend Government Code Section 27388 (a), authorizing the county board of supervisors to impose a fee of up to three dollars (\$3) to be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded within that county for the purpose of providing funding for the investigation of real estate fraud performed by the district attorney.

"Real estate instrument" is defined, for the purpose of this section, as a deed of trust, a reconveyance, a request for notice, a notice of default, a substitution trustee, a notice of trustee sale, and a notice of rescission of declaration of default. It does not include any deed, instrument, or writing subject to the imposition of a documentary transfer tax, nor any document required to facilitate the transfer subject to the documentary transfer tax. The Counties of Contra Costa, San Francisco, Santa Clara, and Solano currently impose the \$2 fee. Contra Costa is moving to adopt the \$3 fee for their real estate fraud trust. San Francisco will likely pursue going to the Board to increase the fee next year.

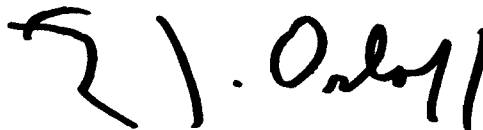
The intent of the Legislature in enacting this section is to have an impact on real estate fraud involving the largest number of victims. To the extent possible, an emphasis is placed on fraud against individuals whose residences are in danger of, or are in, foreclosure. The authorization for the fee increase does not have a sunset clause. The District Attorney's Office shall administer the funds and submit the necessary reports to the State. The Real Estate Fraud Protection Trust Fund shall only be used in connection with criminal investigations or prosecutions involving recorded real estate documents. They cannot be used to offset reduction in any other source of funds.

The fee increase from Two Dollars (\$2.00) to Three Dollars (\$3.00) is reasonable and necessary for the funding of the investigation of and prosecution of real estate fraud performed by the District Attorney's Office.

FINANCING:

Due to the significant decline in receipts from real estate recording fees in the current fiscal year, it is anticipated that the \$1 fee increase will have a minimal revenue impact. It is estimated that FY 2008-09 revenue will be approximately \$350,000, including interest income. There is no net county cost as a result of this action.

Sincerely,

A handwritten signature in black ink, appearing to read "T. J. Orloff". The signature is stylized and written in a cursive-like font.

THOMAS J. ORLOFF  
District Attorney

COUNTY OF ALAMEDA BOARD OF SUPERVISORS

RESOLUTION NUMBER: R-2009-

**WHEREAS**, California Government Code Section 27388 now authorizes the County Board of Supervisors to impose a fee of up to Three Dollars (\$3.00) for the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded within the County for the purpose of funding for the investigation of real estate fraud performed by the District Attorney's Office; and

**WHEREAS**, on September 27, 2008, California Government Code Section 27388 was amended to increase the maximum fee from Two Dollars (\$2.00) to Three Dollars (\$3.00); and

**WHEREAS**, the fee increase from Two Dollars (\$2.00) to Three Dollars (\$3.00) is reasonable and necessary for the funding of the investigation of and prosecution of real estate fraud performed by the District Attorney's Office; and

**WHEREAS**, there has been a decline in receipts from real estate recording fees in the current fiscal year; and

**NOW, THEREFORE BE IT RESOLVED** that an increase in the following fee is warranted and that the following fee may be charged and collected by the County for the:

**Recording Fee for Real Estate Instruments:** Three Dollars (\$3.00)

**BE IT FURTHER RESOLVED**, that the imposition and collection of this fee shall be effective 30 calendar days after approval by the Board of Supervisors.

**THE FOREGOING** was **PASSED** and **ADOPTED** by a majority vote of the Alameda County Board of Supervisors this 13<sup>h</sup> day of January 2009, to wit:

**AYES:**

**NOES:**


**EXCUSED:**

\_\_\_\_\_  
**PRESIDENT, BOARD OF SUPERVISORS**

**ATTEST:**

Crystal Hishida Graff, Clerk  
Board of Supervisors

**Approved as to Form**  
Richard E. Winnie, County Counsel

By   
\_\_\_\_\_  
Robert D. Reiter, Deputy County Counsel

NOTICE OF PUBLIC HEARING  
AND SUMMARY OF PROPOSED RESOLUTION  
PERTAINING TO REAL ESTATE RECORDING FEES

NOTICE IS HEREBY GIVEN that the Board of Supervisors of the County Alameda will hold a public hearing on Tuesday, January 13, 2009 at 11:00 a.m. to consider the adoption of a proposed One Dollar (\$1.00) fee increase, from Two Dollars (\$2.00) to Three Dollars (\$3.00), for the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded within the County for the purpose of providing funding for the investigation of real estate fraud performed by the District Attorney's Office pursuant to Section 27388 of the Government Code effective 30 calendar days after adoption by the Board of Supervisors. The Board meets in Room 536, County Administration Building, 1221 Oak Street, Oakland, California.

Clerk of the Board of Supervisors