

SB2 Building Homes & Jobs Act FAQs

Frequently Asked Questions Concerning Senate Bill 2 (SB2) Building Homes and Jobs Act \$75 Recording Fee

Q1: What is the new Building Homes and Jobs Act Recording Fee?

A: The new fee is an additional charge passed by the legislature and signed by the governor to fund Building Homes and Jobs Act. The fee is assessed at the time documents are recorded into the public record with the county recorder's office.

Q2: Does the new Recording Fee replace previous charges for recording?

A: No, the new Recording Fee is charged in addition to previous recording charges collected by county recorders.

Q3: When does the new recording fee become due?

A: Effective January 1, 2018, the recording fee becomes due at the time an instrument, paper or notice is recorded with the county recorder's office that is not otherwise exempt.

Q4: Is the Building Homes and Jobs Act Recording Fee charged on all documents presented for recording?

A: No, the Building Homes and Jobs Act Recording Fee is charged on real estate instruments, papers or notices permitted by law to be recorded unless otherwise exempt.

Q5: What is considered a "real estate instrument, paper or notice"?

A: The new legislation defines this as a document relating to real property and includes, but is not limited to the following: deed, grant deed, trustee's deed, deed of trust, reconveyance, quit claim deed, fictitious deed of trust, assignment of deed of trust, request for notice of default, abstract of judgment, subordination agreement, declaration of homestead, abandonment of homestead, notice of default, release or discharge, easement, notice of trustee sale, notice of completion, UCC financing statement, mechanic's lien, maps, and covenants conditions and restrictions

Q6: What is the amount of the assessment?

A: The additional fee is \$75.00 per instrument, paper or notice per each single transaction per parcel of real property.

Q7: What is considered a "single transaction"?

A: The Recorder's Association has defined transaction as "instruments, papers, or notices presented together and related to the same parties and property transfer (DRIM).

Q8: Is there a maximum aggregate housing fee charge per transaction?

A: Yes. The maximum aggregate housing fee charge for real estate instrument, paper or notice recorded in a single transaction is \$225.00.

Q9: Are any real estate instruments exempt from the Building Homes and Jobs Act Recording Fee?

A: Yes. The following real estate instruments, papers or notices are exempt from the additional Recording Fee:

- Those transfers subject to and paying documentary transfer tax (DTT) at the time of recording;
- Those recorded concurrently in connection with a transfer subject to DTT;
- Those recorded concurrently in connection with a transfer of real property that is a residential dwelling to an owner-occupier;
- Those which are not related to real property;
- Documents recorded concurrently in connection with a transfer for which the maximum \$225 fee has been collected;
- Those which are expressly exempt pursuant to Government Code section 27383.

Q10: How will a county recorder determine that the maximum has been paid, such that additional instruments recorded in connection with a single transaction are not charged an additional recording fee?

A: After the maximum Building Homes and Jobs Act Recording Fee of \$225 has been met, the document submitter must expressly note that the document is exempt because imposition of the fee would exceed the \$225 cap.

Q11: What real estate instruments, papers or notices will be considered recorded “in connection with” a transfer subject to the imposition of documentary transfer tax?

A: The instrument with documentary transfer tax stamped and paid on it is self-evident, and requires no additional stamp.

The Recorder interprets “in connection with” to mean documents involving the same parties and/or same property that are recorded concurrently. Documents recorded concurrently will have to include an exemption indicating they are part of an exempt transaction.

Q12: What real estate instruments, papers or notices will be considered recorded in connection with” a transfer of real property that is a residential dwelling to an owner-occupier?

A: All instruments necessary to transfer ownership, relinquish debt, and secure new debt recorded in a single transaction will be considered to be in connection with an exempt transfer, if an exemption is declared and presented with the document.

Q13: For a real estate instrument paper or notice to be considered recorded “in connection with” a transfer of real property that is a residential dwelling to an owner-occupier, must such document(s) be recorded concurrently with the document transferring a residential dwelling to an owner-occupier?

A: “In connection with” will be interpreted to mean documents involving the same parties and/or same property that are recorded concurrently.

Q15: How are documents with multiple titles going to be charged Building Homes and Jobs Act Recording Fees?

A: Documents with multiple titles will be charged per title. For example:

(1) Substitution of Trustee and Full Reconveyance (2 titles): The fee is \$75 x 2 titles = \$150.

(2) Assignment, Substitution of Trustee, Reconveyance Agreement (4 titles): The fee is \$225.

Q16: If recording a subdivision map describing multiple lots in a subdivision, is the Building Homes and Jobs Act Recording Fee due equal to (a) the number of lots in the subdivision times \$75, limited by the maximum assessment or (b) the number of lots in the subdivision times \$75?

A: One \$75 fee would be charged for a single transaction regardless of the number of parcels.

Q17: If, in addition to a subdivision map, a person simultaneously presents covenants conditions and restrictions (CCRs) on the same property, is an additional Building Homes and Jobs Act Recording Fee due -- equal to the number of lots in the subdivision times \$75, limited by the Recording Fee maximum?

A: An additional \$75 Building Homes and Jobs Act Recording Fee would be due to record the CCRs.

Q18: Are documents re-recorded for reasons such as correcting a name or attaching a legal description subject to a Building Homes and Jobs Act Recording Fee charge?

A: Yes, previously recorded documents being re-recorded to correct a previous omission or error are subject to an Building Homes and Jobs Act Recording Fee charge. Minor corrections pursuant to Government Code section 27201 (c)(1)(B) and (c)(1) (C) Correction Affidavitare exempt.

Q19: Are reconveyance and release documents recorded to release encumbrances paid prior to January 1st, 2018 subject to the Building Homes and Jobs Act Recording Fee charge?

A: Yes, documents recorded after January 1st, 2018 related to transactions closed prior to that date will be charged the \$75 Building Homes and Jobs Act Recording Fee, regardless if the overall transaction was otherwise exempt. The fee applies to all documents submitted on or after January 1, 2018.