



County of El Dorado

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Legislation Text

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District Attorney recommending that the Board adopt Resolution **015-2009** to increase the real estate document fees from \$2 to \$3 for every recording of real estate instrument according to Government Code Section 27388.

FUNDING: Real Estate Fraud Prosecution Trust Fund.

Fiscal Impact/Change to Net County Cost: Potential increase in revenue in FY 2008-09 based on number of Real Estate filings and an increase in the number of types of documents is estimated at approximately \$60,000.

Background: The Board of Supervisors passed and adopted resolution #169-2004 on June 8, 2004, following Government Code Section 27388 authorizing a \$2 fee for real estate transactions. The fee was established to help law enforcement agencies with the investigation and prosecution of real estate fraud. All funds collected are deposited and held in a trust fund.

On an annual basis the District Attorney's office presents to the Board the prior fiscal year's expenditures and requests at the direction of the Real Estate Prosecution Trust Fund Committee that funds from the Real Estate Fraud Prosecution Trust be transferred to the Department's operating budget. In prior years the agenda item has been brought to the Board in February, but beginning with the report for Fiscal Year 2008-2009 the District Attorney's office will bring forward the agenda item in July.

The funds received through the Real Estate Fraud Prosecution Trust Fund only covers a small portion of the costs the DA's Office continues to incur. For example, beginning Fall of 2007 the District Attorney's Office had been the primary agency investigating a major mortgage fraud case which has since been acquired by the federal government for further investigation and prosecution. This case alone expended on average 500 personnel hours equaling roughly \$30,000. Both incoming and pending cases will far exceed adjusted projected revenue.

Reason for Recommendation: Stipulated by Senate Bill 1396, approved by Governor Arnold Schwarzenegger on September 27, 2008, the increase can only take place if approved by the County Board of Supervisors. In addition to the fee increase, the number of types of documents that qualify for the fee have increased from five to eight.

Attached is a statistical representation of the number of documents along with the corresponding revenue. Under the current fee structure the \$2.00 fee is split with 90% going to the District Attorney and 10% to Recorder-Clerk.

In an effort to be proactive against Real Estate Fraud, the District Attorney's Office is working to implement a program wherein warning notices will be mailed out to all homeowners receiving a "Notice of Default" from their lenders. The warning would provide homeowners with information

regarding foreclosure scams as well as contact information for expert advice and reporting procedures.

The District Attorney's Office plans to work with the El Dorado County Association of Realtors to implement a training program for real estate agents and brokers with a emphasis toward real estate/mortgage fraud issues. As part of the training program those involved will have the opportunity to participate in a periodic discussion panel addressing concerns within the real estate industry as it relates to fraud activity. The end result is the hope that through this effort there will be more public awareness resulting in additional reporting to the District Attorney's Office.

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