



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: District Attorney  
Department No.: 021  
For Agenda Of: January 5, 2010  
Placement: Administrative  
Estimated Tme:  
Continued Item: No  
If Yes, date from:  
Vote Required: Select\_Vote

0105-33 10-00040

TO: Board of Supervisors

FROM: District Attorney Name & Phone: Joshua Lynn, x 2311  
Contact Info: Name & Phone: Dave Saunders, x 2359

SUBJECT: Request to Set Hearing to Increase Real Estate Recording Fee from \$2 to \$3 for the Real Estate Fraud Prosecution Unit in the District Attorney's Office

JAN 05 2010

**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** Other

As to form: County Clerk/Recorder

**Recommended Actions:** That the Board of Supervisors:

a) Set a hearing on January 26, 2010, to adopt a resolution authorizing the Clerk/Recorder to increase the Recording Fee from \$2 to \$3 as authorized by Government Code section 27388 for the Real Estate Fraud Prosecution Unit in the District Attorney's Office.

**Summary Text:**

The District Attorney's Office requests authorization to implement the provisions of California Government Code section 27388, as amended by SB 1396, which allows a fee of up to \$3 per recorded real estate instrument to fund a program to deter, investigate and prosecute real estate fraud crimes through the District Attorney's Office.

**Background:**

Effective August 1, 2007, the Board of Supervisors authorized an increase in the fee paid at the time certain real estate instruments are recorded for purposes of funding enhanced local efforts to deter, investigate and prosecute real estate fraud. Such fees are collected by the Clerk/Recorder's Office at the time eligible documents are recorded. The legislature approved raising the fee from \$2 to \$3 in Government Code section 27388 as amended by SB 1396.

SB1396 also amended the definition of "real estate instrument" to include additional document types including: a substitution of trustee, a notice of trustee sale, and a notice of rescission of declaration of default.

Therefore, it is requested that the Board of Supervisors approved implementation of the fee increase authorized by SB 1396 in a resolution directing the Clerk/Recorder’s Office to raise the fee from \$2 to \$3 per eligible real estate instrument, as defined by Government Code section 27388.

**Performance Measure:**

Reduce the incidence of real estate fraud by continuing implementation of a program focused on prevention, investigation and prosecution in Santa Barbara County.

**Fiscal and Facilities Impacts:**

The District Attorney budgeted \$48,000 in Recording Fees in FY 09/10. Any fee increase will have minimal impact in the current fiscal year, but will be fully budgeted at an estimated \$72,000 in FY 10/11. An estimated \$24,000 of additional Recording Fees will be allocated to a Criminal Investigator required to investigate and refer real estate fraud cases for prosecution.

**Fiscal Analysis:**

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

**Staffing Impacts:**

**Legal Positions:**

**FTEs:**

**Special Instructions:** Please return three executed resolutions and minute orders to Dave Saunders, DA Chief Investigator, Jennifer Marttinen, DA Administrative Director, and Jim McClure, Assistant County Clerk/Recorder.

**Attachments:**

Board of Supervisors Resolution

**Authored by:** Jennifer Marttinen, District Attorney Administrative Director

**cc:** Jim McClure, Assistant County Clerk-Recorder-Assessor

BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA

WHEREAS, the County of Santa Barbara Board of Supervisors established a program to reduce the victimization of vulnerable residents who are unsophisticated in the complexities of real estate transactions; and

WHEREAS, the intent of the program is to have an impact on real estate fraud involving the largest number of victims, particularly those whose residences are in danger of, or are in foreclosure, and

WHEREAS, the County of Santa Barbara desires to continue collection of funds authorized by Government Code section 27388 (section 27388) into the Real Estate Fraud Prosecution Trust Fund which serves as a source of funds for the Santa Barbara County District Attorney's Office Real Estate Fraud Prosecution Program, and

WHEREAS, Senate Bill 1396 amended section 27388 to authorize the increase of fees from \$2 to \$3 collected on real estate instruments, as defined by statute, sought to be recorded with the Santa Barbara County's Clerk/Recorder's Office.

NOW THEREFORE, BE IT RESOLVED that the Clerk and Recorder shall as soon as practicable increase to \$3 the fee imposed at the time of recording all real estate instruments as defined by section 27388, except as to those persons expressly exempted from payment of recording fees.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_ day of \_\_\_\_\_, 2010, by the following votes:

AYES:  
NOES:  
ABSENT:

COUNTY OF SANTA BARBARA

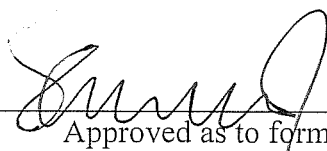
BY: \_\_\_\_\_  
Chair, Board of Supervisors

  
Approved as to form  
Auditor-Controller

ATTEST:

CLERK OF THE BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy

  
Approved as to form  
County Counsel