

Recording Fee Legislation Passes Senate on Party-Line Vote; Measure Now Becomes Law



The California State Assembly passed the core components of a legislative package designed to address California's affordable housing crisis in a close vote. The package included a bond measure and a surcharge on recordings that could be as high as \$225. The California Land Title Association led a coalition of industry groups engaged in an intense lobbying effort against the recording fee surcharge in Senate Bill 2 (Atkins).

As a potential compromise to address the issue of affordable housing, the CLTA drafted an approach that would have (1) created a flat/predictable recording fee for all documents to address TRID concerns, (2) dramatically reduced the recording fee/affordable housing fee charged by applying it to all documents to reduce the impact on individual consumers, and (3) generated double the amount of money collected for affordable housing revenues. CLTA provided this compromise to the Governor's office and Assembly leadership as a win-win compromise for all involved. Unfortunately, this compromise was rejected by representatives of the California Association of Realtors (CAR), who considered any increase in recording fees associated with a home sale to be unacceptable, even if a very small amount.

With the CLTA compromise having been rejected by proponents and CAR, the CLTA had little choice other than to continue to oppose SB 2. SB 2 was strongly supported by legislative leadership and the Governor's office. The vote was very close, and until the last minute it looked like the recording fee surcharge would fail. However, besides Democratic leadership, the measure was supported by a coalition of affordable housing groups, cities and counties, as well as the California Association of Realtors and the California Building Industry Association. The CLTA's message to legislators stressed the CLTA's desire for more affordable housing, but pointed out that SB 2 was a regressive tax, poorly drafted and difficult to implement, and would impose a burden on the very individuals it was seeking to help.

Senate Bill 2 imposes a \$75 to \$225 recording fee surcharge on real estate documents. Proponents expect the fee to generate over \$200 million per year for low-income housing development and programs to combat homelessness. However, half of the first-year funding from SB 2 will be diverted to local government, with cities and counties subsequently receiving 70% of the funding. Given the Governor's aggressive lobbying on this bill, he was expected to sign it, and ultimately, he did pass it and then signed it into law on September 29, 2017.

