CLTA California Land Title Association
SINCE 1907

2019 Summary of Legislation

Contents

Editor's Note

Of the 1052 bills signed into law in 2019, 32 have been summarized as significant for the title industry.

The CLTA wishes to express its appreciation to the Legislative Committee for reviewing the legislation and summaries, and Anthony Helton, CLTA Legislative Coordinator, for producing this publication.

The Summary is intended merely to provide shorthand references to selected bills of interest to the title industry. The actual chaptered versions should always be reviewed for specific details.

Copies of bill text, histories, committee analyses, voting records and veto messages are available from the California Legislature's official website at leginfo.legislature.ca.gov under the "Bill Information, 2019-20 Session" link. All bills summarized in this publication become effective January 1, 2020, unless otherwise noted.

PLEASE NOTE: This publication contains live links to chaptered bill text and case documents. Links to chaptered bills can be found at the end of each bill summary; links to case documents can be accessed by clicking on the case name at the beginning of each case summary.

Accessory Dwelling Units

- **Local Agency Approval**

The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and requires such an ordinance to impose standards on accessory dwelling units, including, among others, lot coverage. Existing law also requires such an ordinance to require the accessory dwelling units to be either attached to, or located within, the living area of the proposed or existing primary dwelling, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

This act deletes the provision authorizing the imposition of standards on lot coverage and prohibits an ordinance from imposing requirements on minimum lot size. The act revises the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or an accessory structure.

Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit within 120 days of receiving the application.

This act requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit within 60 days, instead of 120 days, from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. The act authorizes the permitting agency to delay acting on the permit application if the permit application is submitted with a permit application to create a new single-family or multifamily dwelling on the lot.

Existing law prohibits the establishment by ordinance of minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, if the limitations do not permit at least an efficiency unit to be constructed.

This act prohibits the imposition of those size limitations if they do not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed. This act additionally prohibits the imposition of limits on lot coverage, floor area ratio, open space, and minimum lot size if they prohibit the construction of an accessory dwelling unit meeting those specifications.

Existing law requires ministerial approval of a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot, subject to specified conditions and requirements.

This act instead requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create the following: (1) one accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met; (2) a detached, new construction accessory dwelling unit that meets certain requirements and authorizes a local agency to impose specified conditions relating to floor area and height on that unit; (3) multiple accessory dwelling units within the portions of an existing multifamily dwelling structure provided those units meet certain requirements; or (4) not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to certain height and rear yard and side setback requirements.

Existing law requires a local agency to submit its accessory dwelling unit ordinance to the Department of Housing and Community Development within 60 days after adoption and authorizes the department to review and comment on the ordinance.

This act instead authorizes the department to submit written findings to a local agency as to whether the local ordinance complies with state law, and requires the local agency to consider the department's findings and to amend its ordinance to comply with state law or adopt a resolution with specified findings. The act requires the department to notify the Attorney General that the local agency is in violation of state law if the local agency does not amend its ordinance or adopt a resolution with specified findings.

This act also prohibits a local agency from issuing a certificate of occupancy for an accessory dwelling unit before issuing a certificate of occupancy for the primary residence.

This act requires a local agency that has not adopted an ordinance for the creation of junior accessory dwelling units to apply the same standards established by this act for local agencies with ordinances.

This act makes other conforming changes, including revising definitions and changes clarifying that the above-specified provisions regulating accessory dwelling units and junior accessory dwelling units also apply to the creation of accessory dwelling units and junior accessory dwelling units on proposed structures to be constructed.

NOTE: This act incorporates additional changes to Section 65852.2 of the Government Code made by SB 13 (Ch. 653).

Chapter 655 (AB 68 - Ting); amending Sections 65852.2 and 65852.22 of the Government Code.

Accessory Dwelling Units (cont.)

- **Sale or Separate Conveyance**

The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and requires a local agency that has not adopted an ordinance to ministerially approve an application for an accessory dwelling unit. Existing law also sets forth required ordinance standards, including that the ordinance prohibit the sale or conveyance of the accessory dwelling unit separately from the primary residence.

This act permits a local agency to, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

1. The property was built or developed by a qualified nonprofit corporation.
2. There is a specified enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation.
3. The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
    A. The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.
    B. A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.
    C. A requirement that the qualified buyer occupy the property as the buyer's principal residence.
    D. Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
4. A grant deed naming the grantor, grantee, and describing the property interests being transferred is recorded in the county in which the property is located with a Preliminary Change of Ownership Report filed concurrently with the grant deed.

Because the provisions of Civil Code section 1542 are frequently quoted in settlement agreements and release documents, those types of forms should be reviewed to update the language as amended in this act.

Chapter 657 (AB 587 – Friedman); adding Section 65852.26 to the Government Code.

Civil Actions

- **Use of Pseudonyms in Civil Actions**

Existing law requires a civil action to be prosecuted in the name of the real party in interest, except as otherwise provided by statute. Existing law permits a person who has been the victim of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, to apply to the Secretary of State to participate in an address confidentiality program.

This act permits a person who is a participant in the address confidentiality program and a party to a civil action to proceed using a pseudonym and to exclude or redact other identifying characteristics of the person from all pleadings and documents filed in the action. Parties to the action would be required to use the pseudonym at proceedings open to the public and to exclude and redact other identifying characteristics of the plaintiff from documents filed with the court.

NOTE: This act is silent as to the use of pseudonyms in abstracts of judgment arising out of an action in which a party proceeds under a pseudonym pursuant to this act.

Chapter 439 (AB 800 – Chu); adding Section 367.3 to the Code of Civil Procedure.

Common Interest Developments

- **Accessory Dwelling Units**
- **CC&Rs**

The Planning and Zoning Law authorizes a local agency to provide for the creation of accessory dwelling units (as defined by Government Code Section 65852.2) in single-family and multifamily residential zones by ordinance, and sets forth standards the ordinance is required to impose with respect to certain matters, including, among others, maximum unit size, parking, and height standards. Existing law authorizes a local agency to provide by ordinance for the creation of junior accessory dwelling units (as defined by Government Code Section 65852.2) in single-family residential zones and requires the ordinance to include, among other things, standards for the creation of a junior accessory dwelling unit, required deed restrictions, and occupancy requirements.

Existing law, the Davis-Stirling Common Interest Development Act, governs the management and operation of...

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Common Interest Developments (cont.)

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...common interest developments. Existing law prohibits the governing document of a common interest development from prohibiting the rental or leasing of any separate interest in the common interest development, unless that governing document was effective prior to the date the owner acquired title to their separate interest.

This act makes void and unenforceable any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the above-described minimum standards established for those units.

However, the act permits reasonable restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with those aforementioned minimum standards provisions.

Chapter 178 (AB 670 – Friedman); adding Section 4751 to the Civil Code.

Domestic Partnership

Existing law defines domestic partnership as two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring. Existing law specifies requirements for entering into a domestic partnership, including that the domestic partners be either of the same sex or of the opposite sex and over 62 years of age.

This act removes the requirement that persons be of the same sex or of the opposite sex and over 62 years of age in order to enter into a domestic partnership.

Existing law imposes a $23 charge on persons filing domestic partner registrations to fund the development and support of a lesbian, gay, bisexual, and transgender curriculum for training workshops on domestic violence and for the support of a grant program to promote healthy nonviolent relationships in the lesbian, gay, bisexual, and transgender community. Existing law exempts from this charge persons of opposite sexes filing a domestic partnership registration when one or both of the persons meet the eligibility criteria for federal old-age insurance benefits.

This act expands the exemption from paying the charge to all persons filing a domestic partner registration when one or both of the domestic partners is 62 years of age or older.

Existing law requires the Secretary of State to prepare forms entitled "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" and to distribute those forms to each county clerk and make them available to the public at the office of the Secretary of State and each county clerk.

This act deletes the requirement that the forms be available at the office of each county clerk and, instead, requires that the Secretary of State make the forms available at the office of the Secretary of State or on the Secretary of State's internet website. The act requires the instructions to the "Declaration of Domestic Partnership" form and the internet website to include an explanation that registered domestic partners have the same rights, protections, and benefits, and are subject to the same responsibilities, obligations, and duties under law as are granted to and imposed upon spouses and an explanation of how to terminate a registered domestic partnership.

This act also makes various technical and conforming changes.

Chapter 135 (SB 30 – Wiener); amending Sections 297, 297.1, 298, 298.5, 298.6, 298.7, and 299.2 of, and repealing Section 299.3 of, the Family Code.

Estates and Trusts

- **At-death Transfers**

Existing law provides that either spouse may enter into any real property transaction with the other or any other person, and in transactions between themselves are subject to the general rules governing fiduciary relationships, which are the same rights and duties governing nonmarital business partners. Existing law provides that this confidential relationship imposes a duty of the highest good faith and fair dealing on each spouse and prohibits each spouse from taking unfair advantage of the other. Existing law exempts certain circumstances from these provisions, including, among others, situations involving waivers of spousal rights.

This act additionally exempts at-death transfers between spouses by will, revocable trust, beneficiary form, or other instrument from the above-described provisions and any presumptions of undue influence arising from those provisions. The act clarifies that other statutory or common law presumptions of undue influence may apply to these transfers.

Chapter 43 (AB 327 – Maienschein); amending Section 721 of the Family Code, and adding Section 21385 to the Probate Code.

Estates and Trusts (cont.)

- **Disposition of Estate without Administration**

Existing law authorizes procedures to dispose of a decedent's personal and real property that is valued below specified dollar amounts without a full probate administration. Existing law also authorizes procedures for a decedent's property, including unpaid compensation, to pass to a surviving spouse, under specified conditions that include whether the property is community, quasi-community, or separate property.

This act increases the specified dollar amounts for a small estate to qualify for disposition without a full probate administration. The net value (after subtraction liens and encumbrances as of the date of death) of a small estate under the Probate Code will increase from $150,000 to $166,250. The net value of an estate subject to an order setting aside a decedent's estate to the spouse and children of a decedent will be increased from $20,000 to $85,900. The act also increases the dollar amounts for a surviving spouse to collect unpaid compensation from the decedent-spouse's employer. The value of unpaid compensation will increase from $5,000 to $16,000.

The act also requires, on April 1, 2022, and at each three-year interval ending on April 1 thereafter, the Judicial Council to adjust these dollar amounts based on a particular consumer price index published by the United States Bureau of Labor Statistics. The act further requires the Judicial Council to publish the adjusted dollar amounts and the date of the next scheduled adjustment.

Existing law imposes various types of liability on a person who receives personal or real property from an estate pursuant to the above-described procedures and is later required to return that property. Under certain conditions, the extent of the recipient's liability includes interest on the fair market value of the property at the rate payable on a money judgment.

This act instead imposes an interest rate of seven percent per annum on the fair market value of the property. The act also authorizes a court, in its discretion, to excuse a person from the liability to pay interest, in whole or in part, if the person acted reasonably and in good faith under the circumstances as known to the person and it would be equitable to do so.

This act also makes technical, nonsubstantive changes to these provisions.

Chapter 122 (AB 473 - Maienschein); amending Sections 6602, 6609, 13050, 13100, 13101, 13111, 13112, 13151, 13152, 13154, 13200, 13206, 13207, 13562, 13563, 13600, 13601, and 13602 of, adding Sections 13117, 13211, and 13565 to, and adding Part 21 (commencing with Section 890) to Division 2 of, the Probate Code.

Foreclosure

- **Termination of Tenancy**

Existing law requires a tenant or subtenant in possession of a rental housing unit under a month-to-month lease at the time that property is sold in foreclosure to be provided 90 days' written notice to quit before the tenant or subtenant may be removed from the property. Existing law also provides tenants or subtenants holding possession of a rental housing unit under a fixed-term residential lease entered into before transfer of title at the foreclosure sale the right to possession until the end of the lease term, except in specified circumstances. Existing law repeals these provisions as of December 31, 2019.

This act deletes the December 31, 2019 repeal date, thereby extending the operation of these provisions indefinitely.

Chapter 134 (SB 18 - Skinner); amending Section 1161b of the Code of Civil Procedure.

Housing

- **Tenant Protection Act of 2019**
- **Termination of Tenancy**
- **Statewide Rent Caps**

Existing law specifies that a hiring of residential real property, for a term not specified by the parties, is deemed to be renewed at the end of the term implied by law unless one of the parties gives written notice to the other of that party's intention to terminate. Existing law requires an owner of a residential dwelling to give notice at least 60 days prior to the proposed date of termination, or at least 30 days prior to the proposed date of termination if any tenant or resident has resided in the dwelling for less than one year, as specified. Existing law requires any notice given by an owner to be given in a prescribed manner, to contain certain information, and to be formatted.

This act, the Tenant Protection Act of 2019, limits rents in California by placing an upper limit on annual rent increases of five percent plus inflation. The act also provides for a just cause requirement for eviction. However, both the rent cap and just cause eviction provisions are subject to exemptions, including an exemption for housing built in the past 15 years.

Of particular interest to title companies, this act provides for an exemption from the above rent caps based on who holds title to the property: single-family residences, including condominiums, are exempt unless owned by a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation.

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Housing (cont.)

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The act also authorizes an owner of a deed-restricted affordable housing unit or an affordable housing unit subject to a regulatory restriction contained in an agreement with a government agency limiting rental rates that is not within an assisted housing development to establish the initial rental rate for the unit upon the expiration of the restriction, but requires the owner to comply with the above cap on rent increases for subsequent rent increases for the unit. The act repeals these provisions on January 1, 2030.

This act makes other various changes related to termination of tenancy, including, for no-fault just cause terminations, assistance to tenants by an owner of a residential dwelling in the form of a direct payment or waiver of rent for the final month of the tenancy.

The act repeals the provisions related to termination of tenancy as of January 1, 2030.

Chapter 597 (AB 1482 - Chiu); adding and repealing Sections 1946.2, 1947.12, and 1947.13 of the Civil Code.

Judgments

- **Civil Actions**
- **Satisfaction of Money Judgments**

Existing law requires money received in satisfaction of a money judgment to be credited against costs, interest, court fees, and the principal amount of the judgment in a specified order.

This act provides that payment in satisfaction of a money judgment does not constitute a waiver of the right to appeal, except under certain circumstances. Payment of a severable portion of a money judgment does not constitute a waiver of other portions of the judgment, except under certain conditions. The act states that these provisions are declaratory of existing law.

Chapter 48 (AB 1361 - Obernolte); adding Section 695.215 to the Code of Civil Procedure.

Liens

- **Violation of Defensible Space Requirements**
- **Notice of Abatement Lien**

Existing law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining specified types of land areas within a very high fire hazard severity zone to maintain defensible space around the structure.

Existing law also requires the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, to recommend updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures.

This act makes various changes to existing law related to very high fire hazard severity zones, including requiring the development of a model defensible space program for use by jurisdictions within this state. The act sets forth required components of the program, including enforcement mechanisms for compliance with and maintenance of defensible space requirements.

Of particular interest to title companies, if a defensible space program is adopted, the local agency for enforcement of this program may recover the actual cost of abatement and may cause a notice of abatement lien to be recorded in the county in which the real property is located. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which abatement was ordered by the local agency and the date the abatement was completed, and include a description of the real property subject to the lien and the amount of the abatement cost.

Chapter 404 (SB 190 - Dodd); amending Section 51189 of the Government Code, and amending Section 18931.7 of, and adding Section 13159.5 to, the Health and Safety Code.

Manufactured Housing

- **Point-of-Sale Requirements**

Of particular interest to title companies, this act amends the Manufactured Housing Act of 1980 to require all used manufactured homes, used mobilehomes, and used multifamily manufactured homes that are sold on or after January 1, 2020, or rented pursuant to a rental agreement entered into on or...

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Manufactured Housing (cont.)

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...after January 1, 2020, to have installed in each room designed for sleeping a smoke alarm that is operable on the date of rental or transfer of title, is installed in accordance with the manufacturer's installation instructions, and has been approved and listed by the Office of the State Fire Marshal. The above requirements are deemed satisfied if, within 45 days prior to the date of rental or of transfer of title, the lessor or the transferor signs a declaration that stating that each smoke alarm in the manufactured home, mobilehome, or multifamily manufactured home is installed pursuant to the act and is operable on the date the declaration is signed.

The act also requires that specified information regarding all smoke alarms installed in the used manufactured home, used mobilehome, or used multifamily manufactured home be provided to the purchaser or renter thereof.

This act also makes various changes to the emergency preparedness plan required under the Mobilehome Parks Act not summarized herein.

Chapter 299 (AB 338 - Chu); amending Sections 18029.6 and 18603 of, and adding Section 18603.1 to, the Health and Safety Code.

- **Waiver of Liens Prior to Transfer of Title**
- **Tax Liability Certificate with a Conditional Transfer of Title**

Existing law requires the Department of Housing and Community Development, under certain circumstances, to waive all outstanding charges assessed by the department prior to... ...the transfer of title of the manufactured home or mobilehome, release any lien imposed with respect to those charges, issue a duplicate or new certificate of title or registration card, and amend the title record of the manufactured home or mobilehome.

This act extends the date for an application under these provisions to December 31, 2020, and refers to that program as the Register Your Mobilehome Program. Thus, the act extends the program for mobilehome owners who cannot transfer title due to delinquent taxes and fees that may have been incurred by the prior owner. However, an applicant is ineligible if the applicant, or a previous owner, took ownership interest on or after January 1, 2017, pursuant to a warehouseman's lien.

The act also requires the department to publish, on or before July 1, 2021, an analysis of manufactured home and mobilehome registration that came into compliance through the Register Your Mobilehome Program. The act requires the analysis to include whether each unit is subject to an in-lieu tax or to local property taxation, and the number of units for which a waiver of charges assessed by the department prior to the transfer of title of the manufactured home or mobilehome was requested.

Existing law provides that mobilehomes and manufactured homes not subject to the vehicle license fee are subject to local property taxation, and requires the department to withhold the registration or transfer of registration of any manufactured home or mobilehome subject to local property taxation until the applicant for registration presents a tax clearance certificate or conditional tax clearance certificate issued by the tax collector of the county where the manufactured home or mobilehome is located. Existing law requires the county tax collector to issue a tax clearance certificate or conditional tax clearance certificate if specified requirements are met. Existing law requires the department, when a person who is not currently the registered owner of a manufactured home or mobilehome subject to local property taxation applies to the department for registration or transfer of registration of the manufactured home or mobilehome prior to December 31, 2019, and meets other specified requirements, to issue a conditional transfer of title.

Existing law requires a county tax collector to issue either a tax liability certificate or a tax clearance certificate to a person with a conditional transfer of title who applies for the certificate prior to January 1, 2020.

This act instead requires a county tax collector to issue a tax liability certificate to a person with a conditional transfer of title who applies for the certificate prior to January 1, 2021.

Under existing law, beginning January 1, 2020, it is unlawful for any person to use for occupancy any manufactured home or mobilehome that does not conform to the registration requirements of the department, if the department provides notice to the occupant of the registration requirements and any registration fees due.

This act extends that date to January 1, 2021.

Chapter 488 (AB 173 - Chau); amending Sections 18116.1 and 18550.1 of the Health and Safety Code, and amending Section 5832 of the Revenue and Taxation Code.

Mobilehomes

- **Mobilehome Parks**
- **Tenancies**

The Mobilehome Residency Law governs the terms and conditions of residency in mobilehome parks. The law requires, among other things, that the management of a mobilehome park comply with noticing and other specified requirements in order to terminate a tenancy in a mobilehome park because of a change of use of the mobilehome park.

This act requires management to offer the previous homeowner a right of first refusal to a renewed tenancy in the park if the park is destroyed due to a fire or other natural disaster and management elects to rebuild the park in the same location. The act requires the terms of the renewed tenancy to be substantially the same as the prior rental agreement, except for adjustments to reflect costs and expenses incurred to rebuild the park. The act requires that management send the offer by certified mail at least 240 days prior to reopening the park, and requires a previous owner to accept the offer within 60 days of receiving the offer. The act requires management to accept applications on a first-come-first-served basis and makes the offers nontransferable.

Existing law authorizes management to require that management approve the purchaser of a mobilehome that will remain in the park and require that the selling homeowner, or his or her agent, give notice of the sale to management before the close of the sale. Existing law prohibits management from withholding approval from a purchaser who has the financial ability to pay the rent and charges of the park, except as otherwise provided. Existing law requires management to consider the amount and source of the purchaser's gross monthly income or means of financial support when making this determination.

This act requires management, upon receipt of notice of a sale, to provide within 15 days the standards that management customarily utilizes to approve a tenancy application and a list of all documentation needed to determine if the prospective purchaser will qualify for tenancy in the park. The act prohibits management from withholding approval from a prospective purchaser of a mobilehome unless management reasonably determines that the purchaser will not comply with the rules and regulations of the park, the purchaser does not have the financial ability to pay the rent, estimated utilities, and other charges of the park, or the purchaser commits fraud, deceit, or concealment of material facts during the application process.

This act allows the purchaser to provide, and require park management to consider, evidence of additional financial assets if an application is denied due to the inability to pay the rent, estimated utilities, and other charges, including savings accounts, certificates of deposit, stock portfolios, real property, and any other financial asset that can be liquidated or sold, when making that determination. The act authorizes management to consider liabilities, as well as the additional financial assets, when determining whether the prospective purchaser has the financial ability to pay the rent, estimated utilities, and other charges. The act provides that management may be held liable to a selling homeowner for failing to comply with those provisions.

This act also makes changes to existing law regarding temporary companions residing with a homeowner.

Chapter 504 (SB 274 - Dodd); amending Sections 798.34 and 798.74 of, and adding Section 798.62 to, the Civil Code.

Mortgages and Deeds of Trust

- **Substitution of Trustee**
- **Trustee Resignation**
- **Refusal of Trustee to Accept Appointment**

Existing law regulates the terms and conditions of mortgages and deeds of trust. Existing law authorizes a beneficiary of a deed of trust to substitute a new trustee for the existing trustee in accordance with certain statutory requirements, and that substitution is not effective in certain cases unless it is signed by the respective parties under penalty of perjury. Under existing law, a trustee named in a recorded substitution of trustee is deemed to be authorized to act in this capacity under the mortgage or deed of trust for all purposes from the date the substitution is executed by the mortgagee, beneficiaries, or by their authorized agents.

Existing law provides specified methods by which a trustee may resign, including as provided in the trust instrument or, in the case of a revocable trust, with the consent of the person holding the power to revoke the trust.

This act authorizes a trustee to resign or refuse to accept appointment as trustee at that trustee's own election without the consent of the beneficiary or by their authorized agents, under a trust deed upon real property or an estate for years. The act requires the trustee to give prompt written notice of resignation or refusal to accept appointment to the beneficiary or their authorized agents by mailing an envelope containing a notice of resignation of trustee and recording the notice of resignation in each county in which the substitution of trustee under which the trustee was appointed is recorded, and by attaching to the recorded notice an affidavit stating that notice has been mailed to all beneficiaries and their authorized agents.

The act makes the resignation or refusal to accept appointment of that trustee effective upon the recording of the notice of resignation in each county in which the...

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Mortgages and Deeds of Trust (cont.)

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...substitution of trustee under which the trustee was appointed is recorded. The act also requires the trustee and any successor in interest to that trustee to retain and preserve every writing relating to the trust deed or estate for years under which the trustee was appointed for at least five years after a notice of resignation is mailed and recorded. The act specifies that the resignation of the trustee does not affect the validity of the mortgage or deed of trust, except that no action required to be performed by the trustee under those provisions or under the mortgage or deed of trust may be taken until a substituted trustee is appointed. The act makes related conforming and nonsubstantive changes to those provisions.

This act specifies that, if, after a revocation order is made, a request for hearing is filed in writing within 30 days and a hearing is not held within 90 days, the order would be deemed rescinded as of its effective date. The act prohibits a licensee, during the revocation period, from conducting business unless otherwise specified. The act provides that the revocation of a license does not affect the powers of the commissioner pursuant to the act.

Chapter 474 (SB 306 - Morell); amending Section 2934a of the Civil Code.

Privacy

- **California Consumer Privacy Act of 2018**
- **Definition of "Personal Information"**
- **Publicly Available Information**

Existing law, the California Consumer Privacy Act of 2018, beginning on January 1, 2020, grants consumers various rights with regard to their personal information held by businesses, including the right to request a business to disclose specific pieces of personal information it has collected and the right to request a business to delete any personal information collected by the business. The act generally provides for its enforcement by the Attorney General, but also provides for a private right of action in certain circumstances.

Under existing law, the CCPA defines "personal information" to mean information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. The act excludes "publicly available information" from the definition of "personal information," and defines the term "publicly available" to mean information that is lawfully made available from federal, state, or local government records, if that data is used for a purpose that is not compatible with the purpose for which the data is maintained and made available in the government records or for which it is publicly maintained. Existing law further specifies that information is not "publicly available" if that data is used for a purpose that is not compatible with the purpose for which the data is maintained and made available in the government records or for which it is publicly maintained and specifies that "publicly available" does not include consumer information that is deidentified or aggregate consumer information.

This act redefines "personal information" to mean information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. The act also provides that "personal information" does not include deidentified or aggregate consumer information. The act makes related changes.

This act act also defines "publicly available" to mean information that is lawfully made available from federal, state, or local records and deletes the language stating that "publicly available" information must be data that is used for a purpose that is "compatible with the purpose for which the data is maintained and made available in the government records or for which it is publicly maintained."

Existing law also defines "publicly available" to mean "information that is lawfully made available from federal, state, or local government records, if any conditions associated with such information."

This act deletes the phrase "if any conditions associated with such information."

Chapter 748 (AB 874 - Irwin); amending Section 1798.140 of the Civil Code.

- **Information Practices Act of 1977**
- **Definition of Personal Information**
- **Data Breach Notifications**

Existing law defines and regulates the use of personal information by public agencies and businesses. The Information Practices Act of 1977 requires a public agency, as defined, that owns or licenses computerized data that includes personal information to disclose any breach of the security of the system following discovery or notification of the breach, as specified. Existing law imposes the same duty on a person or business in California that owns or licenses computerized data that includes personal information and generally requires that such a business implement and maintain reasonable security procedures and practices. Existing law authorizes a person or business that is required to issue a security breach notification to include in that notification specified information.

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Privacy (cont.)

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This act revises the definition of personal information for purposes of the provisions described above to add specified unique biometric data and tax identification numbers, passport numbers, military identification numbers, and unique identification numbers issued on a government document in addition to those for driver's licenses and California identification cards to these provisions.

This act authorizes a person or business that is required to issue a security breach notification, as described above, to include in a notification for a breach involving biometric data, instructions on how to notify other entities that used the same type of biometric data as an authenticator to no longer rely on data for authentication purposes.

Chapter 750 (AB 1130 - Levine); amending Sections 1798.29, 1798.81.5, and 1798.82 of the Civil Code.

• Data Broker Registration

The California Constitution grants a right of privacy. Existing law provides for the confidentiality of personal information in various contexts and requires a business or person that suffers a breach of security of computerized data that includes personal information, as defined, to disclose that breach, as specified. Existing law, the California Consumer Privacy Act of 2018, beginning January 1, 2020, among other things, grants a consumer a right to request a business to disclose the categories and specific pieces of personal information that it collects about the consumer, the categories of sources from which that information is collected, the business purposes for collecting or selling the information, and the categories of third parties with which the information is shared.

This act requires data brokers to register with, and provide certain information to, the Attorney General. The act defines a data broker as a business that knowingly collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship.

The act states that a "Data broker" does not include any of the following:

1. A consumer reporting agency to the extent that it is covered by the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).
2. A financial institution to the extent that it is covered by the Gramm-Leach-Bliley Act (Public Law 106-102) and implementing regulations.
3. An entity to the extent that it is covered by the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 1791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code).

The act requires the Attorney General to make the information provided by data brokers accessible on its internet website. The act makes data brokers that fail to register subject to injunction and liability for civil penalties, fees, and costs in an action brought by the Attorney General, with any recovery to be deposited in the Consumer Privacy Fund.

The act makes statements of legislative findings and declarations and legislative intent.

NOTE: 1. The act contains a drafting error, in that its reference in in Civil Code Section 1798.99.80(d)(3) to the Insurance Information and Privacy Protection Act ("IIPPA") should be Insurance Code Section "791", and not Insurance Code Section "1791" as drafted. 2. Section 791.01(d) of the Insurance Code provides that the IIPPA does not apply to any person or entity engaged in the business of title insurance.

Chapter 753 (AB 1202 - Chau); adding Title 1.81.48 (commencing with Section 1798.99.80) to Part 4 of Division 3 of the Civil Code.

• California Consumer Privacy Act of 2018
• Personal Information: Collection / Retention, Business-to-Business Exemption, Fair Credit Reporting Act Exemption, Aggregate / Deidentified Consumer Information
• Anti-Discrimination Provision
• Attorney General Regulations

Existing law, the California Consumer Privacy Act of 2018 ("CCPA"), operative January 1, 2020, grants a consumer various rights in connection with a business, as defined, that collects the consumer's personal information. Existing law defines various terms for these purposes, including "aggregate consumer information", "deidentified", and "personal information". This act addresses various drafting errors and makes other clarifying changes to the CCPA.

This act also excludes consumer information that is deidentified or aggregate consumer information from the definition of personal information.

Under existing law, the CCPA provides that it shall not be construed to require a business to reidentify or otherwise link information that is not maintained in a manner that would be considered personal information.

This act provides that the CCPA shall also not be construed to require a business to collect personal information that it would not otherwise collect in the ordinary course of its business, and retain personal information for longer than it would otherwise retain such information in the ordinary course of its business.

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Privacy (cont.)

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Under existing law, the CCPA also prohibits a business from discriminating against the consumer for exercising any of the consumer's rights under the act, except that a business may offer a different price, rate, level, or quality of goods or services to a consumer if the differential treatment is reasonably related to value provided to the consumer by the consumer's data.

This act corrects an apparent drafting error within the CCPA related to the above provision, located in Civil Code Section 1798.125(a)(2), to provide that a business is prohibited from discriminating against a consumer for exercising any of the consumer's rights under the act, except if the differential treatment is reasonably related to value provided to the business by the consumer's data.

The CCPA requires a business to make certain disclosures to consumers regarding a consumer's rights under the act in a specified manner.

This act requires a business to disclose to consumers that a consumer has the right to request the specific pieces of information and the categories of information the business has collected about that consumer as well as the fact that a consumer has the right to request that the business delete that information.

The CCPA authorizes a consumer whose nonencrypted or nonredacted personal information is subject to an unauthorized access and exfiltration, theft, or disclosure as a result of a business' violation of the duty to implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the personal information to institute a civil action, as specified.

This act corrects an apparent drafting error within the CCPA related to the above provision to, instead, authorize a consumer whose nonencrypted and nonredacted personal information is subject to an unauthorized access and exfiltration, theft, or disclosure as a result of a business' violation of the duty to implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the personal information to institute a civil action.

The act also exempts, subject to a specified condition, from all of the provisions of the title, except for the provision described above related to a business' failure to protect personal information from unauthorized access, any activity involving the collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by specified parties, including a consumer reporting agency.

The act, **until January 1, 2021**, similarly exempts personal information reflecting a written or verbal communication or a transaction between the business and the consumer, where the consumer is a natural person who is acting as an employee, owner, director, officer, or contractor of a company, partnership, sole proprietorship, nonprofit, or government agency and whose communications or transaction with the business occur solely within the context of the business conducting due diligence regarding, or providing or receiving a product or service to or from such company, partnership, sole proprietorship, nonprofit or government agency. The act defines those terms for the purposes of the exemption.

Existing law directs the California Attorney General to adopt additional regulations as necessary to further the purposes of the CCPA.

This act also directs the California Attorney General to adopt additional regulations to establish rules and procedures on how to process and comply with verifiable consumer requests for specific pieces of personal information relating to a household in order to address obstacles to implementation and privacy concerns.

The act also makes conforming and nonsubstantive changes to these and other provisions of the act and also corrects several cross-references.

NOTE: This act incorporates additional changes to Section 1798.140 of the Civil Code made by AB 874 (Ch. 748). This act also incorporates additional changes to Section 1798.145 of the Civil Code made by AB 1146 (Ch. 751).

Chapter 757 (AB 1355 - Chau); amending Sections 1798.100, 1798.110, 1798.115, 1798.120, 1798.125, 1798.130, 1798.140, 1798.145, 1798.150, and 1798.185 of the Civil Code.

- **California Consumer Privacy Act of 2018**
- **Available Disclosure Methods**

Existing law, the California Consumer Privacy Act of 2018, commencing January 1, 2020, grants a consumer various rights with regard to the consumer's personal information that a business collects, discloses for a business purpose, or sells. Among these rights, the act authorizes a consumer to request that a business that collects, discloses for a business purpose, or sells the consumer's personal information to disclose to the consumer specified information related to those activities. The act imposes certain responsibilities on the Attorney General in connection with the act, including the creation of regulations and providing guidance on how to comply with the act.

The act provides that an above-described business is required, in a form that is reasonably accessible to consumers, to make available to consumers two or more designated...

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Privacy (cont.)

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...methods for submitting requests for specified information required to be disclosed, including, at a minimum, a toll-free telephone number, and, if the business maintains an internet website, a website address.

This act provides that a business that operates exclusively online and has a direct relationship with a consumer from whom it collects personal information is only required to provide an email address for submitting requests for information required to be disclosed. The act also requires the business, if the business maintains an internet website, to make the internet website address available to consumers to submit requests for information required to be disclosed.

NOTE: This act incorporates additional changes to Section 1798.130 of the Civil Code made by AB 1355 (Ch. 757).

Chapter 759 (AB 1564 - Berman); adding Title 1.81.48 (commencing with Section 1798.99.80) to Part 4 of Division 3 of the Civil Code.

- **California Consumer Privacy Act of 2018**
- **Consumer Requests for Information**
- **Exemption for Employee, Contractor, and Job Applicant Information**

Existing law, the California Consumer Privacy Act of 2018 ("CCPA"), beginning January 1, 2020, grants consumers various rights with regard to their personal information held by businesses, including the right to request a business to disclose specific pieces of personal information it has collected and to have information held by that business deleted, as specified. The act requires a business to disclose and deliver the required information to a consumer free of charge within 45 days of receiving a verifiable consumer request from the consumer. The act prohibits a business from requiring a consumer to create an account with the business in order to make a verifiable consumer request.

This act provides an exception to that prohibition by authorizing a business to require authentication of the consumer that is reasonable in light of the nature of the personal information requested in order to make a verifiable consumer request. However, the act authorizes a business to require a consumer to submit a verifiable consumer request through an account that the consumer maintains with the business if the consumer maintains an account with that business.

The CCPA also authorizes a consumer to bring a private civil action against a business that violates its duty to implement reasonable security procedures and practices if that failure results in a consumer's personal information being subject to unauthorized access and exfiltration, theft, or disclosure. The CCPA also requires a business that collects a consumer's personal information to, at or before the point of collection, inform consumers as to the categories of personal information to be collected and the purposes for which the categories of personal information shall be used.

This act exempts, **until January 1, 2021**, from all provisions of the CCPA, except the private civil action provision and the obligation to inform the consumer as to the categories of personal information to be collected as described above, information collected from a natural person by a business in the course of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or contractor of that business.

This act makes various other nonsubstantive changes.

NOTE: This act incorporates additional changes to Section 1798.130 of the Civil Code proposed by AB 1355 (Ch. 757) and AB 1564 (Ch. 759). This act also incorporates additional changes to Section 1798.145 of the Civil Code proposed by AB 1146 (Ch. 751) and AB 1355 (Ch. 757).

Chapter 763 (AB 25 - Chau); amending Sections 1798.130 and 1798.145 of the Civil Code.

Property Taxation

- **Community Land Trust**

Existing property tax law requires the assessor to consider the effect of certain enforceable restrictions, including, among others, a contract that is a 99-year ground lease between a community land trust, as defined, and the qualified owner, as defined, of an owner-occupied single-family dwelling or an owner-occupied unit in a multifamily dwelling, that subjects a single-family dwelling or unit in a multifamily dwelling and the leased land on which the dwelling or unit is situated to affordability restrictions.

This act requires, when valuing property subject to the enforceable restriction described above, that the sale or resale price of the dwelling or unit be rebuttably presumed to include both the dwelling or unit and the leased land on which the dwelling or unit is situated, and authorizes this presumption to be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of the leased land is not reflected in the sale or resale price of the dwelling or unit. The act requires corrections of base year values and declines in value owing to the restrictions on properties assessed pursuant to these provisions to apply to all lien dates occurring after September 27, 2016. The act also makes findings and declarations regarding the public purpose served by the act.

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Property Taxation (cont.)

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Existing property tax law, in accordance with the California Constitution, provides for a "welfare exemption" for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met.

This act provides that property is within the welfare exemption if that property is owned by a community land trust otherwise qualifying for the welfare exemption, and specified conditions are met, including that the property is being or will be developed or rehabilitated as housing. The act requires this exemption to apply for five lien dates. The act prohibits this exemption from being denied on the basis that the subject property does not currently contain specified property that is in the course of construction.

The act requires the community land trust to be liable for property tax for the years for which the property was exempt under these provisions if the property was not developed or rehabilitated, or if the development or rehabilitation is not in the course of construction, by January 1, 2025, in the case of property acquired by the community land trust before January 1, 2020, or within five years of the lien date following the acquisition of the property in the case of property acquired by the community land trust on and after January 1, 2020, and before January 1, 2025, and requires the community land trust to notify the assessor if property owned by the community land trust is not in the course of construction by these dates. The act, in the case where property that is owned by a community land trust becomes subject to taxation as so described, requires any assessment made to be made within five years of the lien date following the date on which the property becomes subject to taxation.

Chapter 669 (SB 196 - Beall); amending Sections 75.11, 402.1, and 532 of, and adding and repealing Section 214.18 of, the Revenue and Taxation Code.

• Change in Ownership
• Parent to Child Transfer of Stock

Existing property tax law provides that specified transfers are not deemed a change in ownership for purposes of reassessment. Excluded from the definition of "change in ownership" are real property transfers of a principal residence and the first $1,000,000 of the value of other real property between parents and their children. Existing property tax law defines "real property" for purposes of this provision and excludes from this definition an interest in a legal entity.

This act creates a property tax change in ownership exclusion in the case of a parent to child transfer of stock in a qualified corporation following the last surviving parent's death. The act is limited in scope to the parents' residence and the parcel of land upon which the home is located provided that: 1) the residence has continuously served as the child's home, and 2) the property's assessed value does not exceed $1 million.

The purpose of the act is to protect property from reassessment when children living on a small family farm become owners of the farm after the death of a parent. The act is narrowly drafted to address a specific situation arising in small family farms and therefore has limited statewide application.

The act requires the assessor to report quarterly to the State Board of Equalization all transfers for which a claim for exclusion is made and the amount of each exclusion claimed.

NOTE: This act took effect immediately as a tax levy on October 9, 2019.

Chapter 685 (AB 872 - Aguiar-Curry); amending Section 62 of the Revenue and Taxation Code.

• Senior Citizen Property Tax Postponement

Existing law authorizes a claimant to file a claim with the Controller to postpone the payment of property taxes that are due on the residential dwelling of the claimant pursuant to the Senior Citizens and Disabled Citizens Property Tax Postponement Law, the Senior Citizens Tenant-Stockholder Property Tax Postponement Law, the Senior Citizens Manufactured Home Property Tax Postponement Law, and the Senior Citizens Possessory Interest Holder Property Tax Postponement Law. Existing law, for purposes of these laws, does not allow a postponement of property taxes if the claimant's household income exceeds $35,500. Existing law requires property tax postponement payments, from the time a payment is made, to bear interest at the rate of seven percent (7%) per annum.

This act, beginning July 1, 2020, lowers the rate of interest on property tax postponement payments from seven percent (7%) per annum to five percent (5%) per annum. The act revises the income limitations to instead provide that a claimant's household income cannot exceed $45,000, compounded annually.

Chapter 794 (AB 133 - Quirk-Silva); amending Section 16183 of the Government Code, and amending Section 20585 of the Revenue and Taxation Code.

Public Lands

• Transfer of Oil, Gas, and Mineral Leases

Existing law vests with the State Lands Commission control over certain public lands. Existing law authorizes, with respect to oil, gas, and mineral leases, the assignment, transfer, or sublet as to all or any part of certain leased or permitted lands, as prescribed, subject to approval by the commission, to any person, association of persons, or corporation, who, at the time of the proposed assignment, transfer, or sublease, possesses certain qualifications. Existing law provides that the commission's approval of any assignment or transfer of a separate portion of any lease or permit, or of a separate or distinct zone or geological horizon, or portion of a separate or distinct zone or geological horizon, releases and discharges the assignor or transferor from all obligations thereafter accruing under the lease or permit with respect to the assigned, transferred, or subleased portion of the lease or permit.

This act requires an assignment, transfer, or sublease, or a memorandum of an assignment, transfer, or sublease, to be recorded in the office of the county recorder of the county in which the leased or permitted lands are located. The act authorizes the commission, in considering an approval of an assignment, transfer, or sublease of a lease or permit under those provisions, to consider whether the proposed assignee, is likely to comply with the terms of the assigned lease or permit for the duration of both the primary term of the original lease or permit and any extended term of the lease because of production, as determined by specified factors.

The act deletes the above-described provisions releasing and discharging an assignor or transferor from obligations accruing under a lease or permit after the assignment, transfer, or sublease, and instead provides that an assignor, transferor, or sublessor of a lease or permit remains liable for, and shall not be released or discharged from, obligations under the lease or permit, including requirements under state law to properly plug and abandon all wells, decommission all production facilities and related infrastructure, complete well site restoration and lease restoration, and remediate contamination at well and lease sites, except as provided.

The act, on and after January 1, 2020, also makes a lessee, an assignee, a transferee, or a sublessee of a lease, or an operator of leased lands under these provisions, responsible and liable, from the date on which it engages in specified activities, for plugging and abandoning all wells and decommissioning all production facilities and related infrastructure that have been or may be left on the leased lands by the lessee and any past, present, or future assignee, transferee, or sublessee of the lease or operator of the leased lands.

The act requires a lessee, assignee, transferee, sublessee, or operator to submit to the commission, in writing, a notarized affidavit of liability for the decommissioning of production facilities and related infrastructure under the jurisdiction of the commission within six months after the date on which a lease terminates or expires, and requires the lessee, assignee, transferee, sublessee, or operator to also covenant, in the notarized affidavit, to commence the process of decommissioning the production facilities and related infrastructure within one year after the date on which the lease terminates or expires. The act makes the failure of a lessee, assignee, transferee, sublessee, or operator to comply with these deadlines a misdemeanor, punishable by a fine of up to $10,000, by imprisonment in the county jail for up to one year, or by both that fine and imprisonment, for each offense.

The act requires the decommissioning of the production facilities and related infrastructure to be completed without undue delay, unless the delay is caused by conditions beyond the control of the lessee, assignee, transferee, sublessee, or operator.

Chapter 123 (AB 585 – Limon); amending Section 6804 of, and adding Section 6829.4 to, the Public Resources Code.

• Disposition of Surplus Land by Local Agencies

Existing law prescribes requirements for the disposal of surplus land by a local agency. This act makes various changes to existing law related to disposal of surplus land by local agencies, including the following:

1. Expanding the definition of "local agency."
2. Requiring the local agency disposing of surplus land, to be used for the purpose of developing property located within an infill opportunity zone, to send a written notice of availability to a successor agency to a former redevelopment agency.
3. Prohibiting the agreed terms between a disposing agency and purchasing entity from disallowing residential use of the site as a condition of the sale or lease.

Of particular interest to title companies, this act requires a local agency, prior to agreeing to terms for the disposition of surplus land, to provide the Department of Housing and Community Development with a specified description of the process followed to dispose of the land and a copy of any recorded restrictions against the property in a form prescribed by the Department of Housing and Community Development. The act requires the Department of Housing and Community Development to, among other things, review the description and submit written findings to the local agency within 30 days of receiving the description if the proposed disposal of the land will violate specified provisions of law. The act requires the Department of Housing and Community Development to provide the local agency a reasonable time to respond to the department's findings prior to taking certain actions and would require the local agency to take specified actions in response.

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Public Lands (cont.)

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This act, with certain exceptions, imposes a penalty of 30% of the final sale price of the land upon a local agency that disposes of land in violation of specified provisions of law after receiving the notification from the Department of Housing and Community Development to that effect, and a 50% penalty for subsequent violations. The act authorizes specified entities or persons to bring an action against a local agency to enforce these provisions and allows a local agency 60 days to cure or correct an alleged violation before the action may be brought, except as specified.

NOTE: The act restates existing law that the failure by a local agency to comply with this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

Chapter 664 (AB 1486 - Ting); amending Sections 54220, 54221, 54222, 54222.3, 54223, 54225, 54226, 54227, 54230.5, 54233, and 65583.2 of, and adding Sections 54230.6, 54233.5, 54234, 65400.1, and 65585.1 to, the Government Code.

- **Oil and Gas Production Prohibition**

Existing law authorizes the State Lands Commission to let leases for the extraction and removal of oil and gas deposits from state lands, including tidelands or submerged lands, and vests exclusive jurisdiction over ungranted tidelands and submerged lands owned by the state to the State Lands Commission. Existing law confers the powers of the State Lands Commission as to leasing or granting of rights or privileges to lands owned by the state upon a local trustee of granted public trust lands to which those lands have been granted.

This act, notwithstanding the leasing authority described above or any other law, and to the extent not prohibited by federal law, prohibits any state agency, department, or commission, or any local trustee, with leasing authority over public lands within the state from entering into any new lease or other conveyance authorizing new construction of oil- and gas-related infrastructure upon public lands, including tidelands and submerged lands, to support production of oil and natural gas upon federal lands that are designated as, or were at any time designated as, federally protected lands. The act provides that these provisions do not prevent specified activities, including, among others, any activity undertaken to convey oil or natural gas produced from state lands or waters.

Chapter 769 (AB 342 - Muratsuchi); adding Section 6827.5 to the Public Resources Code.

Real Property

- **Point-of-Sale Requirements**
- **Disclosures**

Existing law requires the Director of Forestry and Fire Protection to designate specified areas as very high fire hazard severity zones and requires a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material to take specified measures to protect that building or structure from wildfires.

This act makes various changes to existing law addressing very high fire hazard severity zones. Of particular interest to title companies, the act makes the following change with respect to documentation provided to a buyer.

Specifically, on or after July 1, 2021, the act requires a seller of real property located in a high or very high fire hazard severity zone to provide specified documentation to the buyer that the real property is in compliance with wildfire protection measures described within the act or a local vegetation management ordinance, or enter into an agreement with the buyer pursuant to which the buyer will obtain documentation of compliance.

This act, on or after January 1, 2021, also requires the seller of any real property located in a high or very high fire hazard severity zone to provide a prescribed disclosure notice to the buyer, if the home was constructed before January 1, 2020, of information relating to fire hardening improvements on the property and a list of specified features that may make the home vulnerable to wildfire and flying embers and which features, if any, that exist on the home of which the seller is aware. The act, on or after July 1, 2025, requires the disclosure notice to also include the State Fire Marshal's list of low-cost retrofits. The act also requires a seller who has obtained a specified final inspection report to provide to the buyer a copy of that report or information on where a copy may be obtained.

Chapter 391 (AB 38 - Wood); adding Sections 1102.6f and 1102.19 to the Civil Code, adding and repealing Article 16.5 (commencing with Section 8654.2) of Chapter 7 of Division 1 of Title 2 of the Government Code, and adding Section 4123.7 to the Public Resources Code.

- **Ellis Act**
- **Withdrawal of Accommodations**

Existing law, commonly known as the Ellis Act, generally prohibits public entities from adopting any statute, ordinance, or regulation, or taking any administrative action, as specified, to compel the owner of residential real property to offer or to...

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Real Property (cont.)

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...continue to offer accommodations, as defined, in the property for rent or lease. Existing law authorizes a public entity acting pursuant to the Ellis Act to require an owner who offers accommodations for rent or lease within a period not exceeding 10 years from the date on which they were withdrawn, as specified, to first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, subject to certain requirements. If the owner fails to comply with this requirement, the owner is liable to a displaced tenant or lessee for punitive damages not to exceed 6 months' rent.

This act prohibits a payment of the above-described punitive damages from being construed to extinguish the owner's obligation to offer the accommodations to a prior tenant or lessee.

Existing law qualifies the Ellis Act prohibition on compelling owners to offer or to continue to offer accommodations by, among other things, permitting a public entity to require an owner to provide notice that the owner has initiated actions to terminate tenancies and, in this situation, the date of withdrawal of accommodations would be 120 days from the delivery of the notice. Existing law extends the term for the withdrawal of accommodations, in this context, to one year if the tenant or lessee is 62 years of age or older, or disabled, and other conditions are met.

This act, with regard to the withdrawal of accommodations and the extension of tenancies, as described above, requires the date of withdrawal for the accommodations as a whole to be the latest termination date among all tenants within the accommodations for purposes of calculating specified time periods. The act makes conforming changes to clarify the application of these provisions with respect to accommodations with multiple units and with respect to requirements to give notice to public entities and tenants with extended tenancies. The act also conforms a statement of legislative intent relating to the Ellis Act to specify that it is not intended to permit an owner to return to the rental market less than all of the accommodations, among other things.

The act also amends this statement of legislative intent to make further statements regarding what the act is not intended to permit on the part of an owner.

Chapter 596 (AB 1399 - Bloom); amending Sections 7060.2, 7060.4, and 7060.7 of the Government Code.

Recorded Documents

- **Notice of Recordation**
- **Recording Fees**

Existing law authorizes the Los Angeles County Recorder, following the adoption of an authorizing resolution by the Los Angeles County Board of Supervisors, to mail a notice of recordation to the party or parties executing a deed, quitclaim deed, or deed of trust within 30 days of the recording of one of those documents, and, until January 1, 2020, also authorizes the recorder to provide notice by mail to a party or parties subject to a notice of default or notice of sale of a property, within a prescribed period following recordation.

This act extends, until January 1, 2030, the provisions authorizing the recorder to provide notice by mail to a party or parties subject to a notice of default or notice of sale of a property.

Existing law requires the County of Los Angeles, following the adoption of the authorizing resolution, to submit a report to the Senate Committee on Judiciary and the Assembly Committee on Local Government on or before January 1, 2019, that provides specified information including, among other things, the number of filed notices of default and notices of sale for which a fee was collected and the amount of fees collected.

This act requires the County of Los Angeles, following the adoption of the authorizing resolution, to submit a report to the Senate Committee on Judiciary and the Assembly Committee on Local Government on or before January 1, 2029, providing the same information. The act requires the report to provide all relevant information covering the period of time between December 1, 2013, and November 1, 2028.

Existing law also authorizes, until January 1, 2020, the Los Angeles County Recorder to collect a fee from a party filing a notice of default or notice of sale. Existing law authorizes the Los Angeles County Recorder to collect a fee from a party filing a deed, quitclaim deed, or deed of trust. Existing law authorizes the recorder to use a portion of the collected fees to pay the actual cost of providing information, counseling, and assistance to a person who receives the notice. Existing law authorizes administrative costs incurred by the recorder to be included as a portion of the actual costs that comprise the fee. Existing law prohibits this fee from exceeding $7.

This act extends, until January 1, 2030, the authority of the County of Los Angeles to collect a fee, including administrative costs, from a party filing a notice of default or notice of sale. The act, on and after January 1, 2030, removes the authority for the fee to include administrative costs and the cost of providing information and counseling, as described above.

Chapter 165 (AB 1106 - Smith); amending Section 27297.6 of, and amending and repealing Section 27387.1 of, the Government Code.

Recording Fees

Existing law requires the recorder of each county, upon payment of proper fees and taxes, to accept for recordation any instrument, paper, or notice that is authorized or required by law to be recorded, as specified. Existing law establishes a fee for recording documents with the county recorder at $10 for the first page and $3 for each additional page and authorizes a county recorder to assess additional specified fees, including a fee of $1 for each document filed in order to defray the cost of converting the county recorder's document storage system to micrographics.

This act, until January 1, 2026, authorizes the $1 fee to additionally be used for restoration and preservation of the county recorder's permanent archival microfilm, to implement and fund a county recorder archive program as determined by the county recorder, or to implement and maintain or utilize a trusted system for the permanent preservation of recorded document images.

Chapter 41 (AB 212 - Bonta); amending, repealing, and adding Sections 12168.7 and 27361.4 of the Government Code.

Vacation Ownership and Time-Share Act

- **Incentives**

Existing law, the Vacation Ownership and Time-share Act of 2004 (VOTA), requires a person who sells a time-share interest or creates a time-share plan to register the time-share plan with the Real Estate Commissioner, except as specified.

Existing law obligates a developer of a time-share plan for the expenses associated with unsold inventory and authorizes a developer of a time-share plan to satisfy that obligation by, among other methods, entering into a deficit subsidy agreement with an association, subject to certain requirements. Existing law also authorizes a developer to undertake to pay a po rtion of the assessments otherwise payable by each purchaser pursuant to a buy down subsidy contract with the association.

Existing law requires the developer to furnish an assurance, or security, to ensure the fulfillment of the developer's obligations pursuant to those provisions. Existing law requires a deficit subsidy agreement or buy down subsidy agreement entered into after July 1, 2005, to provide that if there is a dispute between the parties, the issue shall be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Existing law also provides that, if there is a dispute between the developer and the association with respect to the questions of satisfaction of the conditions for exoneration or release of the security, the issue be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

This act authorizes the issue to be submitted to arbitration in accordance with the rules of another third-party arbitration organization selected by the parties and in accordance with existing provisions governing arbitration.

Existing law requires a contractual provision for a determination by arbitration that the developer is entitled to a disbursement or charge against purchase money as liquidated damages to be conducted in accordance with procedures that are equivalent in substance to the Commercial Arbitration Rules of the American Arbitration Association.

This act authorizes that contractual provision for a determination by arbitration to be conducted in accordance with procedures that are equivalent in substance to another third-party arbitration organization selected by the parties and in accordance with existing provisions governing arbitration.

Existing law requires a time-share instrument for certain time-share plans to contain a termination provision that includes a provision for arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, subject to certain conditions and requirements.

This act authorizes those provisions to specify arbitration in accordance with the rules of another third-party arbitration organization selected by the parties and in accordance with existing provisions governing arbitration.

Under existing law, specified acts, when used as part of an advertising plan or program, are considered deceptive and constitute unfair trade practices, including requesting a recipient, in order to utilize an incentive, to pay money to a person or entity named or referred to in the offer, or to purchase, rent, or otherwise pay that person or entity for any product or service. Under existing law, this prohibition does not apply to specified incentives to stay at a hotel or other resort, if certain conditions are met, including that the accommodations to be occupied by the recipient of the incentive are within a 20-mile radius of the property on which the accommodations offered for sale are located.

VOTA prohibits various deceptive activities in connection with the advertising and promotion of time-share plans, including offering certain travel-related incentives unless the offeror states the terms and conditions to utilize the incentive.

This act authorizes a person subject to VOTA to offer temporary accommodations to a prospective purchaser of a time-share interest located beyond a 20-mile radius of the property on which the time-share interest offered for sale is located if the prospective purchaser has received prior written notice of the location of the temporary accommodations being offered as an incentive and an estimated travel time from the temporary accommodation to the property on which the time-share interest offered for sale is located and has consented to that location. The act repeals this provision on January 1, 2023.

Chapter 153 (SB 578 - Jones); amending Sections 11241, 11242, 11242.1, 11256, and 11267 of, and adding and repealing Section 11245.1 of, the Business and Professions Code.

Index by Bill Number

Index by Chapter Number

Legislative Index by Topic

Legislative Index by Topic

Legislative Index by Topic

The Following Pages Contain

New Cases

of Importance to the Title Industry

PLEASE NOTE: The CLTA would like to thank Roger Therien of Old Republic Title Company for providing the following case summary information.

Abstract of Judgment

Longview Internat., Inc. v. Stirling

(2019) 35 Cal.App.5th 985

The court held that a corporate judgment creditor's recording of an abstract of judgment while the corporation was suspended is a procedural matter which was retroactively validated when its corporate powers were restored. Defendant was not a bona fide purchaser because the recorded abstract was not void but, rather, gave notice that plaintiff asserted an interest in the property that could be enforced upon the revival of its corporate powers.

CC&Rs

Eisen v. Tavangarian

(2019) 36 Cal.App.5th 626, review denied (Sept. 11, 2019)

The court held that CC&R's affecting a residential subdivision did not restrict renovations or alterations to a previously approved residence. The section of the CC&R's that did apply to alterations of a residence had expired. Note: These are the same CC&R's that were the subject of *Zabrucky v. McAdams* (2005) 129 Cal.App.4th 618. Here, the court held that the court in *Zabrucky* misread the CC&R's when it found that they applied to remodeling existing, approved structures.

Eith v. Ketelhut

(2018) 31 Cal.App.5th 1, review denied (Mar. 13, 2019)

The CC&R's affecting defendants' residential property prohibited "any business or commercial activity." The court held that the homeowner's association board acted within its discretion in allowing the continued operation of the vineyard, and its decision is entitled to judicial deference. The court further concluded that, as a matter of law, it is not a prohibited businss or commercial use because it does not affect the community's residential character.

Dedication

Mikkelsen v. Hansen

(2019) 31 Cal.App.5th 170, review denied (Mar. 27, 2019)

The court, following *Scher v. Burke* (2017) 3 Cal.5th 136, held that plaintiffs could not establish an implied dedication of a road on non-coastal property because Civil Code Section 1009(b) bars all use of private real property after March 1972, not just recreational use, from ripening into a public dedication absent an express, written, irrevocable offer of such property to such use, and acceptance by a city or county. *Scher* dealt with an implied-in-law dedication (the period of adverse public use exceeds the period for prescription) and in this case the court held that *Scher* also applies to implied-in-fact (the period of adverse public use is less than the period for prescription) dedications.

Prout v. Department of Transportation

(2018) 31 Cal.App.5th 200, as modified (Jan. 16, 2019)

The rule is that the government cannot, as a condition for issuance of a development permit, impose a requirement that the landowner dedicate land for public use, unless there is an "essential nexus" between the condition and the projected impact of the proposed development. When a government agency conditions its approval of a real property development project on the grant of an easement or other exaction which would otherwise constitute a taking requiring compensation, the property owner must challenge the condition by petition for writ of mandate filed before, or simultaneously with, a complaint for inverse condemnation. The court held that plaintiff's challenge was time barred by the four-year statute of limitations in C.C.P. Section 343. The court also held that Caltrans impliedly accepted plaintiff's offer of dedication on a map by making road improvements on the dedicated land.

Deeds of Trust

JPMorgan Chase Bank, N.A. v. Ward

(2019) 33 Cal.App.5th 678, review denied (June 19, 2019)

A deed of trust was executed in 2007 but was never recorded. The trial court sustained a demurrer without leave to amend because plaintiff bank's complaint sought to correct the deed of trust on the basis of mistake, and that claim was barred by the statute of limitations. The appellate court reversed, holding that, while the cause of action asserted by plaintiff was indeed barred by the statute of limitations, plaintiff should be allowed to amend its complaint to assert a cause of action for restoration of a lost deed under Civil Code Section 3415(a). The court also held that a signature by the sole trustee and beneficiary of an inter vivos revocable trust is sufficient to convey good title to trust property, citing *Galdjie v. Darwish* (2003) 113 Cal. App.4th 1331.

Deficiency Judgments

Black Sky Capital, LLC v. Cobb

(2019) 7 Cal.5th 156

The court held that where a lender who holds both a senior and junior deed of trust nonjudicially forecloses on the senior lien and wipes out its junior lien, the lender may enforce the junior note. Civil Code Section 580d does not apply to preclude a sold-out junior lienholder from enforcing the junior debt, even where the lienholder foreclosed under its own senior deed of trust. The court pointed out that the junior deed of trust was executed two years after the first, and there was no allegation of gamesmanship by evasively splitting a single loan into two loans or recovery in excess of what any junior lienholder would be able to recover.

Easements

Ranch at the Falls LLC v. O'Neal

(2019) 38 Cal.App.5th 155, review denied (Nov. 13, 2019)

In this complicated easement dispute filed by the owner of a horse ranch against the owners of an adjacent residential subdivision, the court reversed the trial court's judgment in favor of plaintiff, holding that:

1. The individual homeowners in the gated community were indispensable parties to plaintiff's lawsuit, so were not bound by the judgment;
2. Plaintiff did not have an express easement over all the private streets of the residential subdivision;
3. Plaintiff did not have an express easement or, alternatively, a prescriptive easement; and
4. Plaintiff did not establish an equitable easement.

Southern California Edison v. Severns

(2019) 39 Cal.App.5th 815

The court held that grants of easements that also stated that the grantee shall "have free access to the telephone poles and fixtures" created floating easements over the grantor's land, and that the floating easements became fixed easements of reasonable width when the parties agreed to specific access routes. The court also held that damage caused when one of the access routes was relocated by agreement of the parties was a permanent nuisance, so the cause of action was barred by the 3-year statute of limitations in C.C.P Section 338(b).

Zissler v. Saville

(2018) 29 Cal.App.5th 630

Defendant attempted to restrict plaintiff's use of an easement for "access, ingress and egress to vehicles and pedestrians" to its historical use of occasional access to maintain landscaping. Plaintiff filed this action alleging that increased use to provide access for a construction project was allowed by the easement. The court reversed the judgment in favor of defendant and remanded to the trial court, holding:

1. Because the easement deed did not contain any limitation on the type of vehicles or frequency of access, the easement may be used to the extent that the use is reasonably necessary for the convenient enjoyment of the easement and is consistent with the purpose for which the easement was granted, provided that the use does not unreasonably interfere with the enjoyment of, unreasonably damage, or materially increase the burden on the servient estate, and
2. As a bona fide purchaser for value, plaintiff was entitled to rely on the plain language of the easement.

Foreclosure

Myles v. PennyMac Loan Services, LLC

(2019) 40 Cal.App.5th 1072

The court upheld a demurrer, rejecting plaintiff's strange claim that an assignment of a deed of trust is void where the borrower is in default.

Foreclosure / Unlawful Detainer

Dr. Leevil, LLC v. Westlake Health Care Center

(2018) 6 Cal.5th 474

Under C.C.P. Section 1161a(b), after a trustee's sale, perfection of title, which includes recording the trustee's deed, is necessary before the new owner serves a three-day written notice to quit on the possessor of the property. Accordingly, an unlawful detainer action cannot proceed where the three-day notice is served before recordation of the trustee's deed, even where the trustee's deed is recorded prior to filing the action.

Fraud / Forgery

People v. Astorga-Lider

(2019) 35 Cal.App.5th 646, review denied (Aug. 28, 2019)

The court upheld a judgment that a deed of trust was void under Penal Code Section 115(e), relying on evidence presented in this criminal proceeding. The owners of the subject property signed the deed of trust but asserted that they did not realize what it was or that it encumbered their property.

Garbage Collection Liens

Kahan v. City of Richmond

(2019) 35 Cal.App.5th 721, review denied (Aug. 21, 2019)

The court held that a purchaser at a trustee's sale under a deed of trust took title subject to a garbage collection lien that recorded shortly before the sale. Gov. Code Sections 25831 and 38790.1 expressly authorize the lien to have the super-priority status payable with property taxes, so the lien was not wiped out by the trustee's sale. The purchaser was not a bona fide purchaser because he purchased at the trustee's sale with notice of the recorded lien. He also was not a bona fide encumbrancer because in order to have that status, he would have to allege facts showing the deed of trust that foreclosed was obtained after the garbage lien existed but before it was recorded.

Irrevocable License

Shoen v. Zacarias

(2019) 33 Cal.App.5th 1112

When a landowner grants someone permission to use her land, she generally retains the right to revoke that license at any time. The landowner may nevertheless be estopped from revoking that license -- and the license will accordingly become irrevocable for so long a time as the nature of it calls for -- if the person using the land has expended money or its equivalent in labor improving the land in the execution of the license. Critically, however, the expenditure of money or labor can make a license irrevocable only if that expenditure is "substantial," "considerable" or "great." Here, the appellate court concluded that the trial court's grant of an irrevocable license was an abuse of discretion because the trial court construed the "substantial expenditure" requirement too permissively, and held that defendant's modest costs of upkeep did not constitute "substantial" expenditures warranting an irrevocable license.

Joint Tenancy

Raney v. Cerkueira

36 Cal. App. 5th 311, review denied 2019 (Sept. 11, 2019)

Civil Code Section 683.2(c) provides that a written instrument severing a joint tenancy is not effective to eliminate the other tenant's right of survivorship unless it is recorded before the death of the severing tenant (with one exception not relevant to this case). Family Code Section 2040(b)(3) provides that the standard automatic temporary restraining order binding parties in a pending dissolution proceeding does not restrain one party's elimination of a right of survivorship to property, provided that notice of the change is filed and served on the other party before the change takes effect. The court held that a party who is bound by the automatic temporary restraining order must satisfy both Civil Code Section 683.2(c) and Family Code Section 2040(b)(3) before the severance of a joint tenancy is effective. However, these requirements may be satisfied in any order.

Legal Descriptions

MTC Financial Inc v. California Dept. of Tax & Fee Administration

(2019) 41 Cal.App.5th 742, reh'g denied (Nov. 20, 2019)

Plaintiff and defendant claimed priority as to proceeds deposited into court after a foreclosure sale. The court held that defendant was entitled to priority. Plaintiff's deed of trust was void because the legal description was insufficient in that it referred to the wrong lot and page number. While the deed of trust also referred to the assessor's parcel number, there was no evidence that the number was the correct assessor's parcel number. The court rejected plaintiff's argument that defendant was not a bona fide purchaser and that recordation is not essential to the validity of a recorded document.

Loan Modifications

Potocki v. Wells Fargo Bank, N.A.

(2019) 38 Cal.App.5th 566

In the portion of the opinion that was certified for publication, the court held that plaintiff stated a claim under Civil Code Section 2923.6(f)(2) because the lender failed to specify the reasons the investors in the loan were denied a loan modification.

Sheen v. Wells Fargo Bank, N.A.

(2019) 38 Cal.App.5th 346, review granted (Nov. 13, 2019)

A lender does not owe the borrower a duty in tort for negligence during negotiations for a mortgage modification.

Mechanics Liens

Precision Framing Systems, Inc. v. Luzuriaga

(2019) 39 Cal.App.5th 457

Placer Foreclosure, acting as trustee, conducted a trustee's sale of property owned by Aflalo. The sale resulted in surplus proceeds. When Aflalo filed an action against Placer and the third-party buyer for wrongful foreclosure and quiet title, Placer filed a complaint in interpleader and deposited the surplus proceeds with the court. The court affirmed a judgment of dismissal after Aflalo's demurrer was sustained and remanded with instructions to release the interpleaded funds to Aflalo. Placer did not face a valid threat of double liability because the purchaser's claim was against Aflalo, not Placer. If the wrongful foreclosure action invalidated the sale, the third party would be entitled to a refund from Aflalo of its purchase proceeds.

Oil and Gas Rights / Tax Sales

Leiper v. Gallegos

(Nov. 20, 2019, No. B292905) ___Cal. App.5th___ [2019 Cal. App. LEXIS 1157]

The court held that a tax sale of real property does not include oil and gas rights in a previously recorded oil and gas lease. Under Revenue and Taxation Code Section 3712(d) a recorded oil and gas lease is a "restriction of record" and excepted from the...

(Continued on Next Page...)

Oil and Gas Rights / Tax Sales (cont.)

(Continued from Previous Page...)

...tax deed in determining the title conveyed. An oil and gas lease is also an easement because an oil and gas lease is a profits a prendre, which is a non-possessory interest in land. A profit is simply a type of easement, and easements are also excepted under Section 3712(d). The court noted that upon termination of the oil and gas lease, the oil and gas rights will revert to the surface owner.

Prescriptive Easement

Ditzian v. Unger

(2019) 31 Cal.App.5th 738

The court held that plaintiffs established a prescriptive easement to a foot path over defendant's property by showing that the use had been open, notorious, continuous and adverse for an uninterrupted period of five years. Plaintiff asserted that Civil Code Section 1009 applied, which does not allow public use to ripen into a public right to continue such use in the absence of an express written irrevocable dedication. The court held that Section 1009 does not apply because plaintiffs asserted a private prescriptive easement, not a public right.

Property Taxes / Change in Ownership

Durante v. County of Santa Clara

(2018) 29 Cal.App.5th 839, review denied (Mar. 13, 2019)

Plaintiff and her sister each owned a 50% interest in residential property they inherited from their mother. Plaintiff's sister conveyed a life estate in her 50% interest to plaintiff. The court held that the transfer of the life estate was a change in ownership under Revenue and Taxation Code Section 60, and the County properly reassessed the property.

Receivers

City of Sierra Madre v. SunTrust Mortgage, Inc.

(2019) 32 Cal.App.5th 648 , review denied (May 22, 2019)

The court held that the trial court properly authorized a receiver to borrow $250,000 in exchange for a receiver's certificate in the amount of the loan with first priority ahead of all other encumbrances. Courts have substantial discretion to authorize a receiver to borrow money to fund the preservation and management of property in the receivership estate. In that circumstance, the receiver may ask the court to authorize the issuance of a receiver's certificate to the lender as security for money loaned to the estate. Typically, such a receivership certificate will have priority over all other liens, even preexisting liens where it is equitable to do so.

Right of First Refusal

Smyth v. Berman

(2019) 31 Cal.App.5th 183, review denied (Mar. 20, 2019)

The court held that a right of first refusal contained in a written lease expires when the leasehold ends and the tenant becomes a "holdover" tenant, and when the lease specifies "the continuing [holdover] tenancy will be from month to month". A right of first refusal is not an essential term that carries forward into a holdover tenancy unless the parties so indicate.

Transmutation

In re Marriage of Begian & Sarajian

(2018) 31 Cal.App.5th 506

The court held that a "Trust Transfer Deed," signed by a husband, granting real property to his wife, did not meet Family Code section 852(a)'s express declaration requirement in order to transmute property. The document's use of the words "grant" and "gift" were not sufficient alone to satisfy the requirement, because the deed did not unambiguously indicate a change in character or ownership of the property. The court noted that granting the property to the wife "as her sole and separate property" would have satisfied the express declaration requirement.

Trespass

Veiseh v. Stapp

(2019) 35 Cal.App.5th 1099

Plaintiff sued defendant for trespass. The court pointed out that generally, the tort of trespass protects possessory interests and, therefore, a person in actual possession of the land may sue for trespass. Ownership or recorded title to land is not required. Here, following plaintiff's transfer of the property to his daughter pursuant to the California Uniform Transfers to Minors Act, plaintiff continued to occupy the property, which was in violation of the Act's requirement that the property be held for the benefit of the minor. The court ruled in favor of plaintiff, holding that a failure to comply with one or more provisions of the California Uniform Transfers to Minors Act does not render the grantor's continued possession and control of the real property unlawful for purposes of the tort of trespass to realty.

Trustee's Sales

Citrus El Dorado, LLC v. Chicago Title Co.

(2019) 32 Cal.App.5th 943

The court upheld the trial court's order sustaining a demurrer in favor of Chicago Title Company, which acted as trustee in conducting a non-judicial foreclosure of a deed of trust. The court held that Chicago Title did not have a duty to verify that the beneficiary received a valid assignment of the loan or to verify the authority of the person who signed the substitution of trustee. Such an inquiry is beyond the scope of the trustee's duties as defined by the deed of trust and the applicable statutes, and there is no appropriate basis for imposing tort liability on Chicago Title for failing to take actions that are beyond the scope of its duties.

Schmidt v. Citibank, N.A.

(2018) 28 Cal.App.5th 1109

Plaintiff and defendant claimed priority as to proceeds deposited into court after a foreclosure sale. The court held that defendant was entitled to priority. Plaintiff's deed of trust was void because the legal description was insufficient in that it referred to the wrong lot and page number. While the deed of trust also referred to the assessor's parcel number, there was no evidence that the number was the correct assessor's parcel number. The court rejected plaintiff's argument that defendant was not a bona fide purchaser and that recordation is not essential to the validity of a recorded document.

Taniguchi v. Restoration Homes, LLC

(2019) 34 Cal.App.5th 1028, reh'g granted (May 22, 2019)

The court held that after a loan modification, in order to cure the default and reinstate the loan under Civil Code Section 2924c, the borrowers do not have to pay the amount of the earlier default on the original loan, which had been deferred under the modification to the end of the loan term. They only need to pay the missed modified monthly payments that caused the default on the modified loan.

Trusts

Pena v. Dey

(2019) 39 Cal.App.5th 546

Defendant was allegedly made a beneficiary of a trust by handwritten interlineations by the original settlor and trustee of the trust. Plaintiff, the successor trustee, asserted that the interlineations were not valid. The court concluded that valid amendments must be by written instrument, signed by the settlor, and delivered to the trustee. The interlineations were never signed, so the trust was not effectively amended.

Voidable Transactions

Sturm v. Moyer

(2019) 32 Cal.App.5th 299

Assuming fraudulent intent, the Uniform Voidable Transactions Act (Civ. Code Section 3439 et seq.) can apply to a premarital agreement in which the prospective spouses agree that upon marriage each spouse's earnings, income, and other property acquired during marriage will be that spouse's separate property.

New Cases Index by Case Name

New Cases Index by Topic

CLTA Legislative Committee (2019/20)

Steve Tjaden, Chair
Old Republic Title Company

Stephen Anderson
Fidelity National Title Group

Kazmer Bernath
Stewart Title Guaranty Company

Randall Bradley
Placer Title Company

Dan Buchanan
First American Title Insurance Co.

Bill Burding
Orange Coast Title Company

Will Choy
Old Republic Title Company

Alice Tsai Chuang
WFG National Title Insurance Co.

Dia Demmon
States Title / North American Title

Greg Herrington
Fidelity National Title Group

Tom Imperiale
First American Title Insurance Co.

Margery Lee
North American Title Company

Cynthia Long
Old Republic Title Company

Gary McMillan
First American Title Company

James Nelson
First American Title Company

Timothy Reardon
Old Republic Title Company

Shari Schneider
Stewart Title Guaranty Company

Lisa Steele
Placer Title Company

Roger Therien
Old Republic Title Company

CLTA Legislative Committee Functions

The CLTA Legislative Committee is established in the Bylaws. It is a 23 member committee which devotes approximately 588 volunteer hours per year in support of this Association.

The purpose of the Legislative Committee is to review and make recommendations with respect to legislative matters that may have an impact on the conduct of the business of title insurance in this state.

The Legislative Committee is charged with the following responsibilities: to review the write ups for the annual Summary of Legislation; to refer legislation to the Forms and Practices Committee for Manual or practice changes; to review legislative proposals; to report significant legislation to the Board of Governors; to determine which legislation the CLTA should sponsor; and to review and determine CLTA positions on all legislation.

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The CLTA's 113th Annual Convention

Mark Your Calendar – April 26-28, 2020

Mark your calendar for the CLTA's 113th Annual Convention!

This year's Annual Convention is scheduled for April 26 - 28, 2020 at the Park Hyatt Aviara Resort in Carlsbad, so save the date! You won't want to miss what's in store, including the Icebreaker Reception, Silent Auction, Business Program, and President's Dinner!

Sponsorship opportunities are now available! More information is available on the CLTA website at www.clta.org.

Registration information and program details will be forwarded in January.

The 2020 CLTA Directory of Members...

Available in January, 2020

For Ordering Information:

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