

C.A.R. sponsored measures already signed or not requiring signature:

AB 2136, Daly. Contracts: statute of frauds.

Existing law prescribes the manner in which contracts may be created. Under existing law, certain contracts are invalid unless the contract, or some note or memorandum of the contract, is in writing and subscribed by the party to be charged. Under existing law, an agreement or contract that is valid in other respects and is otherwise enforceable is not invalid for lack of a note, memorandum, or other writing and is enforceable by way of action or defense, provided that the agreement or contract is a qualified financial contract, as defined, and there is sufficient evidence to indicate that a contract has been made, including, among other alternatives, a written confirmation or the parties have agreed by some other means to be bound by the terms of the qualified financial contract from the time they reached agreement on those terms.

This bill would provide that an electronic message of an ephemeral nature that is not designed to be retained or to create a permanent record, such as a text message or an instant message, is insufficient to constitute a contract to convey real property, in the absence of a written confirmation that conforms to a specified requirement of existing law.

Existing law requires a licensed real estate broker to retain for 3 years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions for which a real estate broker license is required.

This bill would prohibit this requirement from being construed to require retention of electronic messages of an ephemeral nature, as described in the bill.

AB 2430, Maienschein. Transfer disclosures.

The Davis-Stirling Common Interest Development Act requires an association, upon written request, to provide the owner of a separate interest, or a recipient authorized by the owner, with a copy of specific documents relating to transfer disclosures that the owner is required to make to a prospective purchaser of the owner's separate interest. That act authorizes the association to collect a reasonable cost for delivery of those documents but prohibits any additional fees for electronic delivery.

This bill would require the cost for providing the required documents to be separately stated and billed from other charges that are part of the transfer or sales transaction. This bill would authorize an association to collect a reasonable fee from a seller for its actual costs in providing documents under these provisions and would require a seller to be responsible for compensating an association, person, or entity for providing documents under these provisions. This bill would also require a seller to provide a prospective purchaser with certain current documents that the seller possesses free of charge. This bill would prohibit a seller from giving a prospective purchaser the required documents bundled with other documents. This bill would make conforming changes to a codified form.

SJR 19, Correa. High-cost loan limits.

This measure would express the Legislature's opposition to reduction of the current national and high-cost conforming loan limits for Fannie Mae and Freddie Mac by the Federal Housing Finance Agency (FHFA) and would urge the FHFA to continue to resist implementation of any such reductions. This measure also would urge the President and Congress of the United States to join California in opposing any reduction of the national and high-cost conforming loan limits.

C.A.R. sponsored bills on the Governor's desk:

AB 2018, Bocanegra. Real estate licensees: fictitious business names.

Existing law provides for the licensure and regulation of real estate brokers and real estate salespersons by the Bureau of Real Estate headed by the Real Estate Commissioner. Existing law requires an applicant who desires to have his or her license issued under a fictitious business name to file with his or her application a certified copy of his or her fictitious business name statement. Under existing law, any violation of these provisions is a misdemeanor.

This bill would authorize a responsible broker, as defined, by contract, to permit a salesperson to apply for a fictitious business name with the appropriate county and the bureau, to be identified with that responsible broker's license number, and to maintain ownership of a fictitious business name, as defined. The bill would define a team name and provide, for purposes of the provisions described above, that a team name is not a fictitious business name if the name is used by two or more real estate licensees, the name includes a licensee's surname in conjunction with the term "associates," "group," or "team," and the name does not include any term or terms that imply or suggest the existence of a real estate entity independent of a responsible broker. The bill would require advertising that contains a team name, including print or electronic media and "for sale" signage, to include certain identifying information in a conspicuous manner.

This bill would provide that a violation of the provisions described above is not a misdemeanor.

AB 2039, Muratsuchi. Real property sales: auctions.

Existing law regulates the activities of auctioneers and auction companies and prohibits, with a certain exception, a person from causing or allowing any person to bid at a sale for the sole purpose of increasing the bid on any item or items being sold by the auctioneer. Existing law defines an auction in this regard and excepts from this definition a sale of real estate. A violation of these provisions is a misdemeanor generally punishable by a fine of up to \$1,000, or by imprisonment for not more than a year, unless another penalty is specified.

This bill would, on and after July 1, 2015, with respect to an auction that includes the sale of real property, prohibit a person from causing or allowing any person to bid at a sale for the sole purpose of increasing the bid on any real property being sold by the auctioneer. The bill, however, would allow an auctioneer or another person to place a bid on the seller's behalf during an auction of real property if notice, as specified, is given that liberty for that bidding is reserved. The bill would also require in this regard that the person placing that bid contemporaneously disclose to all auction participants that the particular bid has been placed on behalf of the seller. The bill would except from the application of these provisions a credit bid made by a creditor with a security interest in the property that is the subject of auction when the credit bid can result

in the transfer of title to property to the creditor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law requires listing and selling agents, as defined, to provide sellers and buyers in a residential real property transaction with a disclosure form, as prescribed, containing general information on real estate agency relationships. Existing law authorizes a contract between a principal and agent, in this context, to be modified to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties.

This bill would prohibit a lender or an auction company that is retained to control aspects of a residential real property transaction from requiring, as a condition of receiving a lender's approval of the transaction, a homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company and would declare a clause, provision, covenant, or agreement in violation of this prohibition to be against public policy, void, and unenforceable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

AB 1513, Fox. Residential property: possession by declaration.

Existing law allows a plaintiff, upon motion, to have immediate possession of the premises of a manufactured home, mobilehome, or real property by a writ of possession issued by a court and directed to the sheriff of the county or marshal, for execution, where it appears to the satisfaction of the court, after a hearing on the motion, from the verified complaint and from any affidavits filed or oral testimony given by or on behalf of the parties, that the defendant resides out of state, has departed from the state, cannot, after due diligence, be found within the state, or has concealed himself or herself to avoid the service of summons.

Existing law provides that every person who willfully commits a trespass is guilty of a misdemeanor.

This bill would allow an owner of residential property in the Cities of Palmdale and Lancaster in the County of Los Angeles or the City of Ukiah in the County of Mendocino, or an agent of the property owner, to register vacant real property with the local law enforcement agency and to execute, under penalty of perjury, a Declaration of Ownership of Residential Real Property. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

This bill would further allow the property owner, or an agent of the property owner, to file the Declaration of Ownership of Residential Real Property with the local law enforcement agency of the jurisdiction in which the property is located. The bill would require the property owner to post the filed declaration on the property listed in the declaration. The bill would require the local law enforcement agency with which the property is registered to respond as soon as practicable after being notified that an unauthorized person has been found on the property and

take specified action, including requiring a person who is found on the property to produce written authorization to be on the property or other evidence demonstrating the person's right to possession, and notifying any person who does not produce that authorization or other evidence that the owner or owner's agency may seek to obtain a court order and that the person will be subject to arrest for trespass if he or she is subsequently found on the property in violation of that order. The bill would allow the property owner, or an agent of the property owner, to file an action for a temporary restraining order and injunctive relief against a person who is found on the property not less than 48 hours after that person has been so notified. The bill would provide that a property owner, or an agent of the property owner, who files a declaration that includes false information regarding the right to possess the property is liable to any person who, as a result of the declaration, vacates the property, for damages, as specified. By imposing new duties on local law enforcement agencies, this bill would create a state-mandated local program.

The bill would provide that its provisions apply only to 1 to 4-unit residences in the Cities of Palmdale and Lancaster in the County of Los Angeles and the City of Ukiah in the County of Mendocino. This bill would provide that its provisions would be operative until January 1, 2018.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Cities of Palmdale and Lancaster in the County of Los Angeles and the City of Ukiah in the County of Mendocino.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

AB 2540, Dababneh. Real estate licenses.

(1) Under the Real Estate Law, the California Bureau of Real Estate, which is headed by the Real Estate Commissioner, issues licenses to and regulates real estate brokers and real estate salespersons. Existing law authorizes the commissioner to prescribe the format and content of the written applications for the real estate broker examination, broker license, and salesperson examination.

This bill would authorize the commissioner to additionally prescribe the format and content of the application for the real estate salesperson license, and would require that each of those applications for an examination or license, or both, require the applicant to provide valid contact information at which the bureau may contact the applicant.

(2) Existing law requires every licensed real estate broker to have and maintain a definite place of business in the state that serves as his or her office for the transaction of business, displays his or her license, and where he or she holds personal consultations with a client.

This bill would require every real estate broker and salesperson licensee to provide the commissioner with his or her current office or mailing address, current telephone number, and current electronic mail address that he or she uses to perform any activity that requires a real estate license, and at which the bureau may contact the licensee, and to update that information no later than 30 days after making a change. The bill would also exempt a violation of this requirement from criminal penalties.

This bill would provide that the bureau is not required to post or publish electronic mail addresses or telephone numbers collected pursuant to the above provisions, and if this information is released by the bureau, would require that the information be released in a way that discourages its use in unauthorized or unsolicited commercial electronic mail advertisement programs.

C.A.R. sponsored bills that did not pass:

AB 2169, as amended, Cooley. Business and professions.

Existing law, the Real Estate Law, governs the licensure and regulation of real estate salespersons and real estate brokers. Existing law requires all obligations under the Real Estate Law, all regulations issued by the Real Estate Commissioner relating to real estate salespersons, and all other obligations of brokers and real estate salespersons to members of the public to apply regardless of whether the real estate salespersons and the broker to whom he or she is licensed have characterized their relationship as one of "independent contractor" or of "employer and employee."

Existing law authorizes a real estate broker and a real estate salesperson licensed under that broker to contract between themselves as independent contractors or as an employer and employee, for the purposes of their legal relationship with, and obligations to, each other. Under existing law, the characterization of a relationship as either "employer and employee" or "independent contractor" for purposes, including, but not limited to, withholding taxes on wages and unemployment compensation is governed by certain specified provisions of law. Existing uncodified law prohibits the above provisions from being interpreted or applied to affect existing obligations of a real estate broker regarding liability or workers compensation insurance or from altering existing case law.

This bill would clarify that the characterization of a relationship of a real estate broker and a real estate salesperson licensed under that broker as either "employer and employee" or "independent contractor" is conclusive for statutory, regulatory, or common law purposes, if certain statutory requirements are satisfied. The bill would state findings and declarations and the intent of the Legislature in this regard.

This bill would recast and codify the provision relating to the interpretation and application of law on existing obligations of a real estate broker, as described above. The bill would also state findings and declarations and the intent of the Legislature to reiterate the application of existing law regarding the validity and enforceability of the election made by the parties to a real estate retention agreement to characterize their relationship as one of "independent contractor" or "employer and employee."

SB 1091, as introduced, Galgiani. Administrative procedures: California Regulatory Notice Register: proposed rulemaking activities.

Existing law governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law, including procedures relating to increased public participation in the adoption, amendment, and repeal of these regulations. Existing law requires that an agency mail a notice of proposed action to specified entities at least 45 days prior to the hearing and close of the public comment period on the adoption, amendment, or repeal of a regulation. Existing law requires the office to provide for the publication of the California Regulatory Notice Register and to include specified information in the register, including notices of proposed action prepared by regulatory agencies.

This bill would require each state agency to submit a notice to the office for publication in the California Regulatory Notice Register of any meeting or hearing that occurs prior to the mailing or posting of the notice of proposed action, for which the agency posts on its Internet Web site a public notice of a meeting or hearing, as provided.

This bill would also require the office, before January 1, 2017, to make the California Regulatory Notice Register available in an electronically searchable Internet Web-based format, and to include the ability for interested parties to subscribe to an electronic mail notification subscription to the California Regulatory Notice Register or other specific notices contained within the California Regulatory Notice Register.

High profile Bills successfully opposed by C.A.R.

SB 391, as amended, DeSaulnier. California Homes and Jobs Act of 2013.

Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time homebuyers. Existing law also authorizes the issuance of bonds in specified amounts pursuant to the State General Obligation Bond Law. Existing law requires that proceeds from the sale of these bonds be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks.

This bill would enact the California Homes and Jobs Act of 2013. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program. The bill would require that revenues from this fee be sent quarterly to the Department of Housing and Community Development for deposit in the California Homes and Jobs Trust Fund, which the bill would create within the State Treasury. The bill would provide that moneys in the fund may be expended for supporting affordable housing, administering housing programs, and the cost of periodic audits, as specified. The bill would impose certain auditing and reporting requirements.

Existing law requires the Department of Industrial Relations to monitor and enforce compliance with applicable prevailing wage requirements for specified public works projects that are funded by state bond proceeds. Moneys collected for this purpose are continuously appropriated to the department from the State Public Works Enforcement Fund to cover the costs of these monitoring and enforcement duties.

This bill would require the Department of Industrial Relations to monitor and enforce prevailing wage requirements for construction contracts for certain public works projects over \$1,000,000, that are funded, in whole or in part, by the bill. The bill would authorize the department to charge each person or entity awarding a construction contract for the reasonable and directly related costs of the monitoring and enforcement activities, and would require the department to deposit the moneys collected into the State Public Works Enforcement Fund. The bill would exempt projects with a collective bargaining agreement with a mechanism for resolution of wage disputes from this requirement.

By establishing a new source of revenue for a continuously appropriated fund, this bill would make an appropriation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

AB 2416, as amended, Stone. Liens: laborers and employees.

Existing law grants specified persons, including laborers, as defined, who contribute labor, skill, or services to a work of improvement the right to record a mechanic's lien upon the property so improved. Under existing law, when an employer fails to pay wages due, the employee has the right to file a claim against his or her employer, or former employer, with the Division of Labor Standards Enforcement, which is authorized to conduct investigations, hold hearings, and impose fines and penalties for nonpayment of wages.

This bill would enact the California Wage Theft Recovery Act to authorize an employee, with certain exceptions, to record and enforce specified employees to request that the Labor Commissioner record, on his or her behalf, a wage lien upon real and personal property of an employer, or a property owner, as specified, for unpaid wages and other compensation owed the employee, and certain other penalties, interest, and costs. The bill would prescribe requirements relating to the recording and enforcement of the wage lien and for its extinguishment and removal. The bill would require a notice of lien on real property to be executed under penalty of perjury. The bill would authorize the employer or property owner to use a procedure to release the notice of lien or reduce the amount of the lien if the employer makes specified contentions, and would require a specific certification under the procedure to be made under penalty of perjury. The bill would also require the Department of Industrial Relations to issue a report to the Legislature by January 1, 2019, on the effect of these provisions, as specified.

(2) Existing law authorizes a court clerk to allow access to limited civil case records filed in unlawful detainer proceedings to specified persons and, after 60 days after the complaint has been filed, to any other person, with a specified exception.

This bill would prohibit the clerk of the court from allowing access to court records filed in the above-described civil action to displace a tenant or lessee from withdrawn accommodations, when the caption of the complaint states that it is a civil action described above, except as specified.

(3) The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that includes an assessment of housing needs.

This bill would, would authorize, if a county or city and county fails to identify or make available adequate sites to accommodate its portion of the regional housing need allocated to specified income levels, authorize the county or city and county public entity, as defined, finds that the prohibition of the Ellis Act decreases the total number of affordable rental units within a jurisdiction, the board of supervisors to compel the owner of a residential real property to offer, or continue to offer, accommodations in the property for rent or lease by adoption of a resolution or by a majority vote of the electors within the county.