

2010 New Law Workbook

A SUMMARY OF LEGISLATION AFFECTING COUNTY RECORDERS

2010 New Law Workbook

Presented by

County Recorders' Association of California

Legislative Committee

Document Reference Manual Committee

Uniform Practice Committee

Sacramento, California December 8 - 10, 2010 THIS PAGE INTENTIONALLY LEFT BLANK

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Bill Number: AB 52

Chapter Number: 529

Author: Portantino

Topic: Umbilical Cord Blood Collection Program

Impact: Important

Summary: Requests the University of California to establish and

administer the Umbilical Cord Blood Collection Program until January 1, 2018. Establishes the source of funding for the program by increasing the fee for a certified copy of a birth cetificate by a \$2.00 surcharge to the current fee. Fee increase does not affect birth certificates purchased by government agencies. Fees are to be

remitted to the State Treasurer.

Effect: Amends sections 1627, 1628 & 1630 of, and to amend,

repeal, and add Sections 102247, 103605, and 103625 of, the Health and Safety Code, relating to umbilical cord blood banking, and declaring the urgency thereof, to take

effect immediately.

Actions Required: New fee effective November 1, 2010 per All County Letter

(ACL) 10-14, California Department of Public Health

Presenter: Candace Grubbs, Butte County

Notes: There is no administrative fee for the county.

Bill Number:	AB 133
Chapter Number:	33
Author:	Smyth
Topic:	Subdivisions: major thoroughfares
Impact:	Information Only
Summary:	An act to amend Section 66484 of the Government Code, relating to subdivisions.
Effect:	This bill would authorize a local agency to establish a fund for a benefit area that covers all of the bridge and major thoroughfare projects in that benefit area when that benefit area is one in which more than one bridge or major thoroughfare is required to be constructed. The definition of "construction" for the unincorporated area of San Diego County would also be applied to the unincorporated area of, and, in specified circumstances, to other specified areas within, Los Angeles County.
Actions Required:	None
Presenter:	Santa Clara County
Notes:	

Bill Number: AB 1373

Chapter Number: 533

Author: Lieu

Topic: Advertising: grant deed copy services

Impact: Information Only

Summary: This bill makes it unlawful for any person, firm,

corporation, association, or any other business entity to

make any untrue or misleading statements in any

manner in connection with the offering or performance of a grant deed copy service. The bill makes it unlawful to offer to perform this service without making specified

disclosures.

Effect: Adds Section 17537.10 to the Business and Professional

Code, relating to advertising.

Actions Required: None

Presenter: Tauna Mallis, Riverside County

Notes: Riverside drafted the proposed language for this bill

regarding solicitation to the general public of funds to perform a service that the Recorder already provides at a

much reduced cost.

Bill Number: **AB 1770**

Chapter Number: 578

Author: Galgiani

Topic: Vital records: fees: Stanislaus County

Impact: Information Only

Summary: Authorizes, as a pilot program, the Stanislaus 1. County Board of Supervisors, upon making specified findings and declarations, to increase the fees for certified copies of marriage and birth certificates, and death records by up to \$2, with further increases permitted annually based on the

Consumer Price Index. Sunsets the program on

January 1, 2016.

2. Fund to be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention, and prosecution efforts. Allows the county to retain up to 4% of fund

for administrative costs.

3. Requires the Stanislaus County Board of Supervisors to submit to the Assembly and Senate Judiciary Committees a report by July 1, 2014 regarding the funds received, the activities funded

and the outcomes of those activities.

Effect: Potential decrease in domestic/family violence due to

> increased revenue to fund oversight, prevention, intervention programs and prosecution efforts. Adds section 103628.6 to the H&S Code and section

18309.8 to the W&I Code.

Actions Required: None

Presenter: De Ana M. Thompson, San Bernardino County

Notes: CRAC took a "soft oppose" position due to the legislative

platform (fee related to non-recorder related activity).

Bill Number: AB 1813

Chapter Number: 194

Author: Lieu

Topic: Public officials: personal information

Impact: Minor

Summary: This bill specifies that the requirement to remove the

information about the protected classes in this code section from public display on the Internet includes information provided to cellular telephone applications. The bill would also expand the definition of public safety

officer for these purposes, and include within that definition retired members of specified employee

classifications.

Effect: Amends sections 6254.21 and 6254.24 of the Government

Code relating to public officials. Minor annual

nonreimbursable local law enforcement and incarceration costs, offset to a degree by increased fine revenue, to the

extent this bill results in additional misdemeanor penalties for posting public officials' identifying

information.

Actions Required: No action required unless there is a breach in security.

Presenter: Santa Clara County

Notes: Only those Recorders offices that display information

about the protected classes in this code section would be

affected.

Bill Number: AB 2016

Chapter Number: 133

Author: Torres

Topic: Common interest developments: requests for notices of

default

Impact: Important

Summary: Allows a Homeowner's Association (HOA) to record one

notice against all properties where there has been a trustee's deed upon sale in that homeowner's association rather than than record a notice for each individual property within the HOA. The notice will notify the trustee that the HOA is requesting further notice of the name and mailing address of the successor in interest if a

property in a HOA is foreclosed upon.

Specifies that an HOA's recorded request for a copy of a trustee's deed upon sale of any separate interest within the HOA shall provide a legal description or assessor's parcel number of all of the separate interests within the

HOA.

Effect: Adds Section 2924(b) of the Civil Code, relating to

common interest developments.

Actions Required: None

Presenter: Carol Sutherland, Santa Cruz County

Notes: This bill clarifies the intent of SB 1511 (Chapter 527,

Statutes of 2008).

Bill Number:	AB 2091
Chapter Number:	205
Author:	Conway
Topic:	Public records: information security
Impact:	Important
Summary:	Exempts from disclosure under the California Public Records Act the records of a public agency relating to information security and the investigatory or security files compiled by a public agency for information security purposes.
Effect:	Adds section 6254.19 to the Government Code relating to public records.
Actions Required:	None
Presenter:	Tauna Mallis, Riverside County
Notes:	

Bill Number: AB 2530

Chapter Number: 391

Author: Nielsen

Topic: Local government: Williamson Act: contract

Impact: Minor

Summary: This bill, beginning January 1, 2011, and until January 1,

2015, authorizes a county to revise the term for new

contracts.

51244(b)(2) In any year in which this subdivision is implemented, the county shall record a notice that states

the affected parcel number or numbers.

Effect: If enacted by your county, will result in a new Notice

being recorded.

Actions Required: None

Presenter: Leslie Morgan, Shasta County

Notes: The recording requirements represent the indexing of a

single sided document.

T	itl	е	

NOTICE - WILLIAMSON ACT

Purpose

To provide notice of parcels affected by implementation of Government Code Section 51244

Requirements

- 1. Name(s) of owner(s)
- 2. Name of public agency
- 3. Parcel number(s) affected
- 4. Description/Identification of real property
- 5. Signature of agency official
- 6. Signature acknowledged

Free

Legal References

Gov't Code 51244(b)(2), 27287 (ack), 27288.1 (names of parties)

Comments

Local Use

Index	Ordinances/Opinions
Grantor = Owner(s) Grantee = Public Agency	

RECORDING REQUESTED BY:		
WHEN RECORDED MAIL TO:		
	THIS SPACE FOR RECORDER'S USE ONLY	
Notice of Implementation Under Williamson Act		
I,, certify tha	t I am the	
of County, a local govern	nment entity, and that the Board of	
Supervisors of said County has authorized me to	make this notification pursuant to	
Section 51244(b)(2) of the California Government Code.		
Owner(s) of affected parcel(s):		
Assessor's Parcel Number(s):		
Legal Description of affected parcel(s):		
Dated:	Signature of Local Agency Official	

APPROPRIATE ACKNOWLEDGMENT SHOULD APPEAR HERE

Bill Number: AB 2618

Chapter Number: 44

Author: Nestande

Topic: Local government: county recorder

Impact: Important

Summary: Section 27297.7 of the Government Code is amended as

follows:

27297.7(a) Following adoption of an authorizing resolution by the Board of Supervisors, the County Recorder may, within 30 days of recordation of a deed, quitclaim deed, or deed of trust, notify by mail the party or parties executing the document. The Recorder may require, as a condition of recording, that a deed, quitclaim deed, or deed of trust indicate the Assessor's identification number or numbers that fully contain all, or a portion of, the real property described in the legal description. If the description contains more than one Assessor's parcel, all Assessor's parcels shall be indicated. The form of the entry shall be substantially as follows: Assessor's Identification Number ___-___.

- (b) This section shall not apply to the recordation of any document where the Federal Government, or State, County, City or any subdivision of the State acquires title.
- (c) The failure of the County Recorder to provide the notice as permitted by this section shall not result in any liability against the Recorder or the County. In the event that the notice is returned to the Recorder by the Postal Service as indeliverable, the Recorder is not required to retain the returned notice.

continued ▶

Summary (cont'd): (d) Where the County Recorder contracts with any party

or parties for the performance of the processing or the mailing of the notice, or both, as authorized by this

section, the contract shall be awarded by competitive bid. The County Recorder shall solicit written bids for the contract in a newspaper of general circulation in the

County, and all bids received shall be publicly opened and the contract awarded to the lowest responsible bidder. If the County Recorder or his or her designee deems the acceptance of the lowest responsible bidder is not in the best interest of the County, all bids may be rejected.

Effect: Allows all County Recorders to give notice, but cannot

collect a fee for this service. Does not affect the DRIM.

Actions Required: Board of Supervisor approval needed to implement.

Presenter: Lori Minneker, Shasta County

Notes: Existing law authorizes only the Board of Supervisors for

Los Angeles and Riverside Counties.

Bill Number: SB 189 **Chapter Number:** 697 Lowenthal **Author: Topic:** Mechanics liens **Impact:** Minor **Summary:** Rewrite on entire Mechanics Lien Section of Civil Code **Effect:** Minor **Actions Required:** Notices of Completion must be signed by owner, not agent **Presenter:** Gilbert Carter, Fresno County

Notes:

Bill Number: SB 863

Chapter Number: 722

Author: Committee on Budget and Fiscal Review

Topic: Local government: Williamson Act contracts

Impact: Minor

Summary: This bill changes the recording requirements set in

AB 2530 (Chapter 391, Statutes of 2010) to read:

51244(b)(2) In any year in which this subdivision is

implemented, the county shall record a notice that states the affected parcel number or numbers and the current owner's names, or, alternatively, the same information

for those parcels that are not affected.

Effect: The changes to the initial recording requirements help

provide better information for indexing.

Actions Required: None

Presenter: Leslie Morgan, Shasta County

Notes: Questions may arise from the wording: "or, alternatively,

the same information for those parcels that are not

affected."

Bill Number: SB 1035

Chapter Number: 485

Author: Hancock

Topic: Municipal utility district: utility charges: delinquencies

Impact: Minor

Summary:

- This bill would authorize and establish procedures, until January 1, 2016, for a municipal utility district to collect delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, for services rendered to a lessee, tenant, or subtenant, by recording in the office of the county recorder where the property is located a certificate declaring the the amount of the delinquent charges which would then constitute a lien against the affect real property of the delingent property owner. This bill would exempt only electrical sevices from these collections. The district shall file for recordation a release of the lien within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district. The delinquent fees may be collected on the tax roll in the same manner as property taxes after a certificate has been filed (recorded) in the office of the county recorder. [Repealed January 1, 2016].
- 2. A district may require the owner of record to pay the fees, tolls, rates, rentals, or other charges that have become delinquent and file (record) a certificate in the office of the county recorder. The district shall file for recordation a release of the lien within 30 days of receipt payment of all amounts due including recordation fees [Operative on January 1, 2016].

Effect: An act to amend, repeal, and add Section 12811.1 of the

Public Utilities Code, relating to utility chagres.

Actions Required: None

Presenter: Monique Blakely, Los Angeles County

Note:

Title I			
Municipal Utility District Certificate of Lien			
Purpose			
	To evidence a lien against real prop	erty for the nonpayment of utility charges.	
Requirements	1		
Requirements	_		
1.	Name(s) of owner(s)		
2.	Name of public agency		
3.	Description/identification of real p	roperty	
4.	Amount of delinquent charges		
5.	Signature of local agency official		
6.	Signature acknowledged		
	*Proof by subscribing wittness is	not acceptable (witness acknowledgment)	
le			
Fees			
	D.		
	r.	egular	
Legal References	6		
Pt	ublic Utilities Code 12811.1; Govt. C	ode 27287 (ack), 27288.1 names of parties	
Comments			
Local Use			
	Index	Ordinances/Opinions	
- 10			
Grantor = Owner / Grantor			
Grantee = Claimant /	Public Agency		

RECORDING REQUESTED BY:	
WHEN RECORDED MAIL TO:	
	SPACE DIRECTLY ABOVE RESERVED FOR RECORDER'S USE

Certificate of Lien (Municipal Utility District)



DOCUMENT UNDER DEVELOPMENT

Bill Number: SB 1124 **Chapter Number:** 321 **Author:** McLeod Topic: Land conservation: California Wildlife, Coastal, and Park Land Conservation Act: County of San Bernardino **Impact:** Minor Summary: This bill authorizes San Bernardino County to exchange lands purchased with State Park bond funds if the County meets certain requirements relating to conservation easements and deed restrictions on lands retained and sold. **Effect:** San Bernardino only. Does not effect the DRIM **Actions Required:** None **Presenter:** Lori Minneker, Shasta County

Notes:

Bill Number: SB 1221 **Chapter Number:** 180 Author: Calderon Topic: Mortgages: notice of sale **Impact: Information Only Summary:** This bill would instead require those persons to give notice of sale 5 days before the lapse of a 3-month period provided the date of sale is no earlier than 3 months and 20 days afer filing notince of default. **Effect:** Informational **Actions Required:** None Patricia A. Knox, Tuolumne County **Presenter: Notes:**

Bill Number: SB 1222

Chapter Number: 520

Author: Wok

Topic: Marriage licenses: vital records: fees: domestic violence:

Solano County

Impact: Information Only

Summary: Extends the collection of fees up to \$2 for issuing

marriage licenses and for providing certified copies of marriage, birth, death and fetal death certificates for the purpose of funding local domestic violence programs in

Solano County until January 1, 2012.

Effect: Fees collected through this pilot program are an

important source of domestic violence program funding

for the county.

Actions Required: None

Presenter: De Ana M. Thompson, San Bernardino County

Notes: Amends section 26840.11 of the GC, section 103628 of the

H&S Code and section 18309.5 of the W&I Code.

Bill Number: SB 1333

Chapter Number: 329

Author: Yee

Topic: Airports: avigation easements

Impact: Important

Summary: This bill would provide that if a political subdivision

approves a noise-sensitive project that the avigation easement be granted to the owner/operator of the airport prior to the issuance of the building permit. It would also require the owner/operator of the airport to record a Notice of Termination within 90 days if the noise-

sensitive project has not been completed

Effect: Add section 21669.5 to the Public Utilities Code, relating

to aviation.

Actions Required: Creates a new document for the DRIM

Presenter: David Valenzuela, Ventura County

Notes: None

Title Notice of Termination (Avigation Easement)		
Purpose To give notice of the expiration/revocation of a permit for a noise sensitive project in relation to an Avigation Easement		
1. Name of owner(s) or operator(s) of airport 2. Recording reference to Avigation Easement 3. Signature of owner(s) or operator(s) 4. Signature(s) acknowledged		
Fees Regular*		
Legal References PUC - 21669.5 (d), *21699.5 (e) (fee-no exemption), Govt - 27287 (ack), 27361.6 (rec. ref)		
Comments		

Local Use

Index	Ordinances/Opinions
Grantor = Owner or Operator	

RECORDING REQUESTED BY:	
WHEN RECORDED MAIL TO:	
	SPACE DIRECTLY ABOVE RESERVED FOR RECORDER'S USE

Notice of Termination (Avigation Easement)



DOCUMENT UNDER DEVELOPMENT

Bill Number:	SB 1427			
Chapter Number:	527 Price Foreclosures: property maintenance			
Author:				
Topic:				
Impact:	Important			
Summary:	Requires that prior to imposing a fine or penalty for failure to maintain a vacant property purchased or aquired through foreclosure, a government entity must provide a notice of the violation and an opportunity to correct the violation.			
	Provides that an assessment or lien to recover the costs of nuisance abatement shall not exceed the actual and reasonable costs of nuisance abatement.			
	This bill provides that a local government entity shall not impose a lien or assessment to recover the costs of nuisance abatement unless the costs are adopted by a body of elected officials at a public hearing.			
Effect:	Adds Section 2929.4 of the Civil Code			
Actions Required:	None			
Presenter:	Carol Sutherland, Santa Cruz County			
Notes:				

Title

Notice of Lien - Nuisance Abatement

Notice of Lien - Contaminated Property/Mobile Home/Manufactured Home/RV: Methamphetamine

Purpose

To evidence a lien against real property to recover the cost of abating a nuisance; determining contaminated property or a contaminated mobile home, manufactured home or RV

Requirements

- 1. Name(s) and address(es) of owner(s)
- 2. Name of local agency
- * 3. Registered owner(s) of mobile home/manufactured home/RV (if applicable)
 - 4. Description/identification of real property
- ** 5. Street address and Assessor's Parcel Number
 - 6. Mailing & street address/space of manufactured home/mobile home or Vehicle Identification # of RV (if applicable)
 - 7. Amount of lien
 - 8. Date lien created/determined contaminated
 - 9. Signature of local agency official
 - 10. Signature acknowledged

Fees

***Regular fee plus lien fee if applicable

Legal References

Govt - 38773.1 (c) (1), 38773.1 (c) (4), 38773.2 (d), 38773.2 (g) (fee), 54988 (2) (c), 27287 (ack), H & S - 25400.22 (contaminated property), 25400.22 (b) (1) (fee), **2929.45 (a)**

Comments

***Recorder may charge a fee for the Notice of Lien - Nuisance Abatement
***Recorder shall charge a fee for the Contaminated: Methamphetamine document

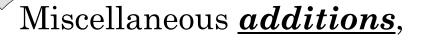
Local Use

Index	Ordinances/Opinions
Grantor = Owner	
Grantee = Public Agency	

Owner or registered owner must be set out for Notice of Lien - Contaminated: Methamphetamine document

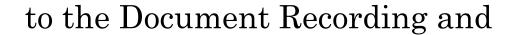
^{**} Street address not required for Notice of Lien - Contaminated: Methamphetamine document

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corrections and





Indexing Manual (DRIM)

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ACKNOWLEDGMENTS, PROOFS AND VERIFICATIONS(cont.)

5. ACKNOWLEDGMENT IN A FOREIGN LANGUAGE (GC-8, 27293)

Any document, including an acknowledgement, must be in English. **Exception:** An apostille, when clearly identified by that title and used in conjunction with an acknowledgement, is acceptable without translation it if is in a foreign language. When an acknowledgment taken in a foreign country is in a foreign language an English translation must be made and attached to the document. The translation must be verified and certified by the County Clerk in order for the document to be recorded.

6. ACKNOWLEDGMENT TAKEN BY A MILITARY / VETERAN OFFICER (CC - 1183.5, M & V CODE 973)

Any officer on active duty or performing inactive - duty training may take an acknowledgment for any person serving with the armed forces, or for any spouse of a person serving with the armed forces either as military or civilian personnel. Any County Veteran service officer may take an acknowledgment for a veteran. No seal or authorization of the foregoing acts are required.

7. ACKNOWLEDGMENT TAKEN IN PENAL INSTITUTIONS (U.S. CODE TITLE 18, SEC. 4004)

The wardens and superintendents, associate wardens and superintendents, chief clerks, record clerks, and parole officers of Federal penal or correctional institutions, may administer oaths to and take acknowledgements of, officers, employees and inmates of such institutions.

3. SIGNATURE BY MARK (GC - 16)

A "mark", such as an X, is included in the definition of a signature for acknowledgment purposes when a person is unable to write for reasons of physical or mental impairment or illiteracy. The acknowledgment for such a signature must include:

The signature of two witnesses.

The name of the person signing with a "mark" written near the "mark" by one of the witnesses.

NOTE: The acknowledgment must be made for the person signing with a "mark" and not for the witness.

The following is an example of the wording that may be used but is not mandatory:

(name) being unable to write made his/her mark in our presence and requested the first of the undersigned to write his/her name, which he/she did, and we now subscribe our names as witnesses thereto.

WITNESSES

9. PROOF OF EXECUTION

Proof of execution of a document may be made in the following ways.

a. proof by subscribing witness (CC - 1196, 1197)

In the absence of an acknowledgment a proof of execution may be taken by a notary public. The subscribing witness (the person signing as witness) must provide (with an oath) to the notary public that the person who signed the document is the person described in the document, that it is the person's signature, and that he / she signed the document as a witness.

There is no form for proof by a subscribing witness in the Civil Code, however, the following form is widely used.

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Title	
-	DEED

Purpose

To transfer title to real property

Requirements

- 1. Name(s) of grantor(s)
- 2. Name(s) of grantee(s)
- 3. Description/identification of real property
- 4. Documentary Transfer Tax Declaration
- * 5. Mailing address tax statements
 - 6. Certificate of Acceptance if deed is to political or governmental agency for public purposes
 - 7. Signature(s) of grantor(s)
- ** 8. Signauture(s) acknowledged

Document type requires Preliminary Change of Ownership Report and Permits \$20.00 penatly fee per Assessor/Recorder agreement

*Not required for an avigation easement

**Proof of subscribing witness not acceptable (witness acknowledgment)

Fees

Regular fee and possible Documentary Transfer Tax transaction and/or Survey Monument Preservation fee

Legal References

CC - 1092, Govt - 27321.5 (tax address), 27281 (certificate), 27287 (ack), 27585 (SM *F*) R & T - 480.3 (PCOR), 11932 (DTT),

PUC - 21669.5 (avigation easement),21699.5 (e) (fee-no exemption)

Comments

Deeds from a county treasurer to a reclamation district require regular recording fees For definitions of specific types of deeds, i.e., Quitclaim, Warranty, etc. see Glosary

Local Use

Index	Ordinances/Opinions
Grantor = Grantor	
Grantee = Grantee	

MECHANIC'S LIEN

Purpose

To create a lien in favor of persons contributing labor, material, supplies, etc., to a work of improvement upon real property

Requirements

- 1. Name(s) of property owner(s) or reputed owner(s)
- 2. Statement of claimant's demand (dollar amount)
- 3. Statement of labor, services, equipment or materials, etc. furnished by the claimant
- 4. Claimant's employer or to whom labor, materials, etc.

furnished (contractor or owner)

- 5. Description of site sufficient for identification
- 6. Signature of claimant or agent
- 7. Verification
- 8. Proof of service

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Regular fee plus lien fee, if applicable

Legal References

CC - 3084 CCP - 2003 (oath), 2015.59 (unsworn statement)

Comments

Local Use

Index	Ordinances/Opinions
Grantor = Owner	
Grantee = Claimant	

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WATER DISTRICT CERTIFICATE OF LIEN

Purpose

To evidence a lien against real property for non-payment of charges for water and other services by a County Water District

Requirements

- 1. Name(s) of person(s) liable
- 2. Address of the person(s) liable
- 3. Amount of unpaid charges
- 4. Name of water district
- 5. Signature of local agency official
- 6. Signature acknowledged

Fees			
	_		
		Free	

Legal References

Water Code 31701.7 & 36729, Gov't Code 27287 (ack), 27288.1 (names of parties)

Comments				
	_			

Local Use

Index	Ordinances/Opinions
Grantor = Person(s) Liable Grantee = Water District	

[NEW — PAGE # TBD]

RECORDING REQUESTED BY:		
WHEN RECORDED MAIL TO:		
	THIS SPACE FOR RECORDER'S USE ONLY	
Certification Specifying Unpaid Charges of Water District		
I,, under pe	enalty of perjury, certify that I am the	
of Water District, a local government		
entity, and that the Board of Directors of said Dis		
certificate pursuant to Section 31701.7 of the Ca	lifornia Water Code.	
The waveen warmed below in indebted to t	ha Diatriat for above a for	
The person named below is indebted to t and other services, the unit	paid amount of which is set forth below.	
Name of Person Liable:		
Address of Person Liable:		
Amount of Unpaid Charges: \$		
Water Dietriet hereh	v olaima a lian unan all raal proparty in	
the county said person now owns or hereafter ac	y claims a lien upon all real property in	
filing this certificate.	oquillos milimi torryouro mom uno uuto or	
Details		
Dated:	Local Agency Official	

APPROPRIATE ACKNOWLEDGMENT SHOULD APPEAR HERE