

Real Estate Ownership: California

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A Q&A guide to commercial real estate laws for owners and purchasers in California. This Q&A addresses state laws and customs that impact the ownership and the purchase and sale of commercial real estate, including real property taxes, transfer taxes, instruments for transferring fee title, execution and recording requirements, necessary disclosures, title insurance matters, and risk of loss. Federal, local, or municipal law may impose additional or different requirements. Answers to questions can be compared across a number of jurisdictions (see Real Estate Ownership: State Q&A Tool).

Types of Estates and Taxable Real Property

1. When an estate in real property is conveyed, granted, or demised, is it deemed to be transferred as an absolute fee simple estate?

The most common conveyance instrument used in California is a grant deed. If the grantor executing the grant deed holds an absolute fee simple estate, that entire interest is transferred to the grantee under the grant deed.

A fee simple estate is presumed to be conveyed by grant deed if no additional words indicate that the grantor intended to convey a lesser estate (Cal. Civ. Code § 1105).

2. Is there specific language which must appear in a deed to convey an absolute fee simple estate?

California law does not require specific language to convey an absolute fee simple estate. A fee simple estate can be conveyed by a quitclaim deed, which transfers whatever interest the grantor holds in the real property. If the grantor desires to warrant that they are granting a fee simple estate, then the grantor would use a grant deed.

3. What other freehold estates are permitted? Briefly describe each.

In California, in addition to a fee simple absolute, the following freehold estates are permitted:

- **Fee simple estate subject to a condition subsequent.** At common law, this estate was known as a “fee simple defeasible” estate and includes any fee simple estate to which a previous owner has a right of reverter (Cal. Civ. Code § 778).
- **Life estate.** This is a freehold estate measured by the life or lives of one or more persons. On the expiration of the life estate, the fee interest passes either to a third party or, if no third party is designated, reverts to the grantor. (Cal. Civ. Code § 766.)

Real Property Taxes

4. In relation to real property taxes, please describe:

- The kind of property that is taxable as real property.
- Any kind of real property that is exempt from real property taxes.
- The current rate and nature of the taxes (for example, assessed value or school tax).
- The payment and collection procedures.

Property Treated as Real Property

California property subject to taxation as real property includes:

- Land.
- Mines.
- Minerals.
- Quarries.
- Standing timber.
- Improvements, which include:
 - buildings;
 - structures;
 - fixtures;
 - fences; and
 - certain specified trees and vines.

(Cal. Rev. & Tax. Code §§ 104 and 105.)

Exemptions

There are many categories of exemptions from real property taxes created by both the California Constitution and by statute, for example, real property used exclusively for religious, hospital, scientific, or charitable purposes if the owner is not organized or operated for profit (Cal. Rev. & Tax. Code § 214(a)(1)).

Rate and Nature of Taxes

Under California's Proposition 13, real property taxes are limited to 1% of the full cash value of the property and may increase by a maximum of 2% each year (Cal. Const. art. 13A, §§ 1(a) and 2(b)).

In addition to basic real property tax, under Proposition 13 counties can assess real property taxes for certain voter-approved indebtedness, for example, school bonds (Cal. Const. art. 13A, §§ 1 to 7). Counties may increase the tax rate above the standard 1% to produce additional revenue for any bonded indebtedness that voters previously approved (Cal. Const. art. 13A, § 1(b)(1)).

The County Assessor may reassess the property if:

- Ownership changes (including many indirect changes in ownership).

- Construction (including improvements to existing structures) is completed.

(Cal. Const. art. 13A, § 2(a).)

Payment and Collection

The property tax year runs from July 1 until the following June 30. Property taxes are payable in two equal installments that are due on:

- November 1 (taxes become delinquent if not paid by December 10).
- February 1 (taxes become delinquent if not paid by April 10).

There is an immediate 10% penalty if the taxes are not paid on or before the delinquency date. In addition to the automatic penalty, interest accrues at the rate of 1.5% per month. (Cal. Rev. & Tax. Code §§ 2601 to 2636 and 2922.)

Tax assessment, payment, and collection practices vary by jurisdiction. Consult with local counsel or a title company (or contact the applicable taxing authority directly) to verify these details.

Instruments and Execution Requirements

5. What deeds (or other instruments) are used to convey fee title and which is most commonly used? Briefly describe each.

The most common type of deed in use is the grant deed in California. A grant deed includes the implied covenants that:

- The grantor has not previously conveyed the property to any person other than the grantee.
- The estate being conveyed is free of encumbrances done, made, or suffered by the grantor.

(Cal. Civ. Code § 1113.)

The quitclaim deed is also used in California. A quitclaim deed transfers whatever interest the grantor may have in the property, without any warranty. Title insurance companies typically insure conveyances made by quitclaim deed without special exceptions or limitations in the policy.

6. Are there any specific state or local recording requirements necessary to record a deed? In particular, please specify if:

- Specific officers must sign for a corporation or other entity.
- Specific language is required to evidence the authority of a signatory for a corporation or other entity.
- A certificate of authority to do business in your state is required if the grantee on the deed is a foreign company.
- The corporation's seal is required on the signature page.
- There are specific margins or headings required for the deed.
- A cover page is required for recording.
- There are any other requirements.

The following general requirements are not exclusive. There may be additional local recording obligations. Confirm the applicable procedures with a title company or by contacting the recording office directly (see Question 12).

For information on California's adoption of electronic signatures, electronic recording, or remote online notarization (RON), see Question 21.

Officers

In California, there is no requirement that a specific officer execute a deed on behalf of an entity.

To insure a deed executed on behalf of a corporation, a title insurance company typically requires evidence of the signatory's authority to act on the entity's behalf. This may include:

- A resolution of the board of directors.
- A consent of:
 - the members of a limited liability company (LLC); or
 - the general partners of a partnerships.

Language for Signature Block

There is no requirement that specific language be used in a signature block to evidence the authority of a signatory for the corporation or other entity.

Authorization to Do Business

There is no requirement for a grantee that is a foreign entity to have a certificate of authority or otherwise qualify to transact business in California. However, even though the conveyance is valid, a foreign company may be required to qualify to transact business within California, depending on the nature of its business activities within the state. (Cal. Corp. Code § 2105.)

Corporate Seal

A corporate seal is not required on the signature page (Cal. Corp. Code § 207(a)).

Margins or Headings

A deed, like other recorded instruments, must meet formatting requirements, including that the first page must:

- Have a 2.5-inch top margin, with the left 3.5 inches of this space to be used to show:
 - the name of the person requesting recording; and
 - the name and address of the party to receive the recorded instrument after recording.
- Have one-half-inch margins on the vertical sides of the page.
- Be on paper of sufficient quality that will reproduce legibly.

(Cal. Gov't Code § 27361.6.)

If the first page of a document to be recorded does not meet these requirements, a cover page meeting the requirements can be attached to the document to make the document recordable (Cal. Gov't Code § 27361.6).

All other pages must have one-half-inch margins on the vertical sides (Cal. Gov't Code § 27361.6).

Cover Page

A cover page is not required. However, if the first page of a document does not satisfy the minimum top margin requirement, then a cover page may be attached to the document.

7. Provide the statutory form of acknowledgment for:

- An individual.
- A corporation.
- A limited liability company.
- A limited partnership.
- A trustee.

Individual

In California, the statutory form of acknowledgment (which applies to individuals and all types of entities) is provided in Cal. Civ. Code § 1189. The recorder’s offices of all California counties accept for recording, documents executed in another state using the other state’s form of notarial acknowledgment.

The following acknowledgment form reflects the statutory form with instructive language (in brackets) to assist with completing the form. All acknowledgments must contain the boxed notice included at the top of this acknowledgment form.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF [COUNTY]

On [DATE] before me, [NOTARY NAME], a Notary Public, personally appeared [SIGNATORY NAME], who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[SIGNATURE] [SEAL]

Corporation

The statutory certificate form applies to a party making an acknowledgment on behalf of a corporation (Cal. Civ. Code § 1189(a)(3); see Individual).

Limited Liability Company

The statutory certificate form applies to a party making an acknowledgment on behalf of an LLC (Cal. Civ. Code § 1189(a)(3); see Individual).

Limited Partnership

The statutory certificate form applies to a party making an acknowledgment on behalf of a limited partnership (Cal. Civ. Code § 1189(a)(3); see Individual).

Trustee

The statutory certificate form applies to a trustee making an acknowledgment on behalf of a trust (Cal. Civ. Code § 1189(a)(3); see Individual).

Disclosures, Necessary Filings, and Transfer Taxes

8. Must the ultimate (whether direct or indirect) beneficial owner of an entity that owns real property be publicly disclosed? Briefly describe what is required and in what circumstances.

Under the federal Corporate Transparency Act (CTA) (31 U.S.C. § 5336), non-exempt entities formed or registered to do business in the US must report their beneficial ownership information (BOI) to the Treasury Department’s Financial Crimes Enforcement Network (FinCEN). For companies formed on or after January 1, 2024, reporting is required within 30 calendar days of creation. For companies formed before January 1, 2024,

reporting is required by January 1, 2025. Reporting companies must also update their BOI report with any changes to previously reported information within 30 calendar days of the change.

For more information on the CTA, see [Practice Note, Corporate Transparency Act Beneficial Ownership Reporting](#) and FinCEN's [FAQs](#).

There is no requirement to disclose the identity of the beneficial owner of an entity that owns real property in California.

Corporations and other entities (both California and foreign entities registered to transact intrastate business in California) must file an [annual statement of information](#) with the [California secretary of state](#), which discloses officers, directors, and managers (as applicable) (Cal. Corp. Code § 1502).

In addition, whenever a buyer acquires California real property, it must notify the applicable county recorder or assessor and provide certain information regarding both:

- The acquisition transaction.
- The current value of the property.

The notification must be made within 90 days after the change in ownership occurs to either:

- The county recorder when the deed is recorded.
- The county assessor.

(Cal. Rev. & Tax. Code § 480(a), (e).) Additional time is permitted for a change in ownership due to an owner's death (Cal. Rev. & Tax. Code § 480(b)).

A Preliminary Change of Ownership Report ([Board of Equalization Form BOE-502-A](#)) (PCOR) form satisfies the notification requirement to the applicable county recorder or assessor (Cal. Rev. & Tax. Code §§ 480.3 and 480.4).

9. When a corporation is the fee title owner of real property, must it record any documents to evidence a merger, conversion, or name change?

There is no requirement to record documents evidencing a merger, conversion, or name change in California. Because county records are indexed based on a grantor/grantee index, there is a requirement to reference how title was taken before the name change (Cal. Civil Code § 1096).

Before conveying insurable title to the real property, the surviving entity in a merger must record a certificate of merger. Certain transactions, for example, a merger,

may result in a change of ownership and give rise to a reassessment for real property tax purposes (Cal. Const. art. 13A, § 2(a); see Question 4).

10. In connection with state and local transfer, stamp, or similar taxes and direct transfers of real property:

- Describe any taxes which apply when fee title ownership is directly transferred.
- What transfer tax returns (or other documents) must be filed for direct transfers of real property?
- What is the timing for filing the returns and paying the transfer taxes on direct transfers?
- Are transfer taxes customarily paid by the purchaser or the seller in a direct transfer of real property?

Applicable Taxes for Direct Transfers

California law authorizes each county to collect a transfer tax equal to 0.11% of the consideration for the property transferred (Cal. Rev. & Tax. Code § 11911).

Additionally, some cities, particularly in the San Francisco Bay Area and in Los Angeles County, have separate additional transfer taxes. Sometimes, these taxes are many times greater than the standard county transfer tax.

For example, in the City of San Francisco, which has the highest transfer tax rate for large transactions, the transfer tax is:

- \$11.25 for each \$500 on properties with a sales price or value of at least \$5 million but less than \$10 million.
- \$27.50 for each \$500 on properties with a sales price or value of at least \$10 million but less than \$25 million.
- \$30.00 for each \$500 on properties with a sales price or value of \$25 million or more.

([San Fran. Bus. & Tax. Code Art. 12-C § 1102.](#))

Certain transfers that are not sales are exempt from transfer tax, including:

- Conveyances from parent to subsidiary.
- Inter vivos gifts.

(Cal. Rev. & Tax. Code §§ 11925(d) and 11930.)

There may be additional local transfer tax obligations. Confirm any local transfer tax requirements with a title company or by contacting the applicable taxing authority or recording office.

Returns

Transfer tax returns are not required. At closing, the amount of the tax is based on the declaration made by the grantor, grantee, or both, for the value of the consideration. The county may audit the amount of tax after the instrument is recorded.

The amount of documentary tax paid is set out on the face of the deed (Cal. Rev. & Tax. Code § 11932).

Filing and Payment Deadlines

The transfer tax is due and payable when the deed is recorded (Cal. Rev. & Tax. Code § 11933).

If the County Recorder's office audits a transaction and determines that the full amount of tax was not paid on recording, the recorder may assess penalties and interest for late payment. Penalty and interest charges vary by local jurisdiction.

Custom

The seller customarily pays the transfer taxes. On some occasions, the city portion of the transfer tax may be divided between the seller and buyer. The allocation of tax liability between a seller and buyer is the result of negotiation.

11. In connection with state and local transfer, stamp, or similar taxes and indirect transfers of ownership interests in real property:

- Does an indirect transfer of real property ownership interests trigger transfer taxes? For example, would the transfer of corporate or membership interests of an owner of real property trigger transfer taxes?
- What transfer tax returns (or other documents) must be filed for indirect transfers of real property ownership interests?
- What is the timing for filing the returns and paying the transfer taxes on indirect transfers?
- Are transfer taxes customarily paid by the purchaser or the seller in an indirect transfer of real property ownership interests?

Applicable Taxes for Indirect Transfers

If California real property is owned by a partnership or LLC, a transfer of ownership interests that results in the

termination of that entity for federal income tax purposes is subject to a documentary transfer tax under state law (Cal. Rev. & Tax. Code § 11925). A transfer of 50% or more of the capital and profits of the partnership or LLC within a 12-month period is a termination, and therefore triggers the tax (26 U.S.C.A. § 708).

The California Revenue and Taxation Code does not impose transfer taxes on:

- Indirect transfers of corporate stock (irrespective of the percentage interest in the corporation that is being transferred).
- The transfer of membership interests in a single-member LLC.

Many counties and cities have taken a more aggressive approach with indirect transfers (including transfers of corporate stock and interests in single-member LLCs) that result in a change in control of an entity. The ordinances and rules of these counties and cities should be consulted before structuring a transaction.

There may be additional local transfer tax obligations. Confirm any local transfer tax requirements with a title company or by contacting the applicable taxing authority or recording office.

Returns

A transfer tax return is not required to be filed in connection with indirect transfers. If an indirect transfer, either in a single transaction or when aggregated with previous indirect transfers, results in a change in control (when more than 50% of the interests are transferred), the law requires legal entities that own or lease real property to file a Statement of Change in Control and Ownership of Legal Entities ([Form BOE-100-B](#)) with the [California State Board of Equalization](#) in Sacramento (Cal. Rev. & Tax. Code §§ 480.1 and 480.2).

The State Board of Equalization shares the information on these forms with County Assessors and County Recorders, who may use the information to:

- Reassess for property tax purposes.
- Seek to collect a transfer tax.

Filing and Payment Deadlines

If a change in control of an entity occurs (either in a single transaction or when aggregated with previous indirect transfers), Form BOE-100-B must be filed with the State Board of Equalization within 90 days following

the transfer (Cal. Rev. & Tax. Code §§ 480.1 and 480.2). If Form BOE-100-B is not timely filed, a penalty is assessed at the rate of 10% of either:

- The new base year taxes if the transaction would have resulted in a property tax reassessment.
- The current year's taxes if the transaction would not result in a property tax reassessment.

(Cal. Rev. & Tax. Code § 482(b).)

Customs

For transfer taxes resulting from indirect transfers, the allocation between seller and buyer is a matter of negotiation. The person or entity that acquires ownership control of the subject entity must file Form BOE-100-B (Cal. Rev. & Tax. Code § 480.1(a)).

Recording Interests and Title Insurance

12. Where are ownership interests recorded and how are they indexed?

Ownership interests are recorded locally in the official records maintained by the county recorder of each of the 58 California counties. There are grantor and grantee indexes, and real property ownership can also be searched by:

- Street address.
- Legal description.

Local requirements vary. Consult the applicable recording office for the county or counties in which the real property is located.

13. Do title insurance companies or attorneys typically conduct title searches?

In California, attorneys do not conduct title searches. Title insurance companies handle all title searches.

14. What form of title assurance is available to a purchaser? For example, is an abstract of title, a title insurance policy, or a title opinion more common?

Title assurance in California is given in the form of American Land Title Association (ALTA) title insurance policies. California attorneys do not provide title opinions.

15. Are title insurance premiums or service charges for owners' title insurance policies regulated? Is the cost of title insurance negotiable within a specified range of rates? Are there any discounts available for reissued policies?

Title insurance companies must file their rates with the [California Department of Insurance](#). The filed rates are not subject to the approval of the Insurance Commissioner. The rates may not be:

- Excessive.
- Inadequate.
- Unfairly discriminatory.

(Cal. Ins. Code § 12401.3(a).)

Title insurance companies may not charge less than the filed rates for transactions under \$20 million. However, the filed rates are low compared to the rates charged in most other states; and there is often some negotiation about the rate to be charged.

For transactions above \$20 million, title insurance companies can charge rates below their filed rates, with the premiums to be commensurate with the risk assumed by the company.

Discounts are available for reissued policies.

16. List the title endorsements available for an owner's title insurance policy for non-residential property.

The two forms of title insurance policies used in California are:

- The [American Land Title Association](#) (ALTA) forms.
- The [California Land Title Association](#) (CLTA) forms.

The following is a nonexclusive list of endorsements commonly used in California commercial real estate finance transactions. All of the ALTA common endorsements are available in California for a non-residential owner's policy. Not all endorsements are applicable to each transaction. Consult with a title company for a full list of available endorsements:

- Zoning.
- No violation of CC&Rs.
- Access.

- Contiguity.
- Subdivision.
- Separate tax parcel.
- Survey.
- Encroachment.
- Non-imputation.

Title insurance companies must file their forms of endorsements with the [California Insurance Commissioner](#). The companies can modify their endorsements on a transaction-by-transaction basis, which allows a title company to customize an endorsement to address a specific matter.

Risk of Loss

17. Is the risk of loss during the contract period typically on the seller or on the purchaser if the contract is silent?

In California, when a purchase contract does not allocate risk of loss during the contract period, the risk of loss falls on the seller (Cal. Civ. Code § 1662). Customarily the contract provides that if a minor casualty occurs (usually defined as a casualty the damage from which can be repaired in a relatively short period of time, or the cost of which is a small percentage of the purchase price), the buyer must still perform with the seller:

- Assigning all insurance proceeds to the buyer.
- Crediting the buyer at closing for any deductible on the insurance policy.

Real Property Investment Vehicles

18. What are the most common forms of investment vehicle for real property and what are the most common entities used?

The limited liability company (LLC) is the most common investment vehicle for real property in California. LLCs are favored because:

- They are pass-through entities for income tax purposes.
- Like partnerships, they provide flexibility in allocating profits and losses.

- Unlike limited partnerships, there is no need to have one or more general partners that are personally liable for the entity's debts. All members of an LLC enjoy protection from the liabilities of the LLC.

Delaware LLCs are favored due to the flexibility afforded by Delaware law. However, out-of-state entities must qualify to transact business in California, which adds annual maintenance costs. (Cal. Corp. Code §§ 17708.02 to 17708.07.) California LLCs are also commonly used.

19. Are real estate investment trusts (REITs) or similar entities currently permitted? If so, are they common?

Real estate investment trusts (REITs) can own real property in California (Cal. Corp. Code §§ 23000 to 23006).

A REIT usually forms a single-member, wholly-owned LLC to:

- Take title to real property.
- Insulate the REIT's other assets from liability associated with the real property.

Regulation and Taxation

20. Is there significant regulation and taxation of real property locally? Is there significant variation in the regulation and taxation?

Under California's Proposition 13, there is a uniform system of property taxation across the state, with minor individual differences in local rates resulting primarily from voted indebtedness, for example, school bonds (see Question 4).

Additionally, while a uniform county documentary transfer tax is imposed by state law, some cities have enacted significantly higher rates (see Question 10). Regulation of development and use of real property is largely a local matter. Some local governments provide economic incentives to attract businesses to increase employment in their communities, while other local governments have restrictions that can cause projects to take years to obtain approval.

Electronic Signatures, Recording, and Notarization Laws

21. Has your state adopted laws permitting electronic signatures, electronic recording, and remote notarization? In particular, include information on whether:

- The Uniform Electronic Transactions Act (UETA) or another law giving electronic signatures legal effect has been adopted.
- The Uniform Real Property Electronic Recording Act (URPERA) or another law permitting the recording of electronic signatures has been adopted.
- The Revised Uniform Law on Notarial Acts (RULONA) or another law permitting remote online notarization (RON) has been permanently adopted and/or temporary remote online notarization is permitted on an emergency basis due to the coronavirus pandemic.

Note that despite California's adoption of the applicable electronic laws referred to below, the transaction parties or county recording offices may not be required to accept documents executed or notarized electronically. Before relying on any of the below electronic laws for a particular transaction, counsel should confirm (as applicable) that:

- All parties to the transaction agree to accept electronic signatures and/or remotely notarized documents and intend to be bound by them.

- The applicable recording office accepts electronic signatures and remotely notarized documents for recording.

Electronic Signatures

California has adopted the UETA (Cal. Civ. Code §§ 1633.1 to 1633.17).

Electronic Recording

California has not adopted the URPERA. However, California has a law (the Electronic Recording Delivery Act of 2004) that allows county recorders to establish an electronic recording delivery system (Cal. Gov't Code §§ 27390 to 27399).

Remote Online Notarization

California has not adopted RON.

For a state-by-state chart covering key provisions of RON laws, emergency orders permitting RON during the COVID-19 pandemic, and pending electronic recording and RON laws, see [Electronic Signatures, Recording, and Notarization Laws for Real Estate Transactions: State Comparison Chart](#). To view and customize comparison charts on electronic signatures, recording, and notarization laws across states, see [Quick Compare Chare, State Laws on Electronic Signatures, Electronic Recording, and Remote Notarization](#).

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