



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS
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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

STEVEN JAHR
Administrative Director of the Courts

CORY T. JASPERSON
Director, Office of Governmental Affairs

May 27, 2014

Hon. Donald P. Wagner
Member of the Assembly
State Capitol, Room 2158
Sacramento, California 95814

Subject: AB 1698 (Wagner), as introduced - Support

Dear Assembly Member Wagner:

The Judicial Council is pleased to support AB 1698, which requires a court to issue a written order declaring a false or forged instrument to be judged void at its inception when: (a) a defendant is convicted of offering a false or forged instrument for filing; or (b) a defendant enters a plea in which a charge of offering a false or forged instrument is dismissed, but he or she agrees to let the court consider the dismissed charge for purposes of sentencing. The bill additionally requires: (a) the order to state whether the instrument is false, forged, or both, and to describe the nature of the falsity or forgery; (b) a copy of the false or forged instrument to be attached to the court order; and (c) a certified copy of the court order to be filed, registered, or recorded.

The council supports AB 1698 because it increases the efficiency of courts by avoiding costly quiet title actions. Under case law, forged real estate instruments are void ab initio (see *Schiavo v. Armando Brothers* (2000) 85 Cal. App. 4th 374, 375); that case law, however, does not extend to false real estate instruments. Moreover, under existing law it is not clear that a court may declare a forged or false instrument void in the context of a criminal proceeding relating to that instrument. Thus, even though a defendant may be convicted of real estate fraud for creating a

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false deed, that false deed still appears as a cloud on the victim's title to the real estate. The victim's only remedy under current law is to file a quiet title action to remove the cloud, a costly and time-consuming process. By requiring a court to declare a forged or false real estate instrument void in the context of the criminal proceeding, AB 1698 will eliminate the additional burden of a quiet title action on the victim and the court. As a result, we believe that AB 1698 increases the efficiency of courts.

For these reasons, the Judicial Council supports AB 1698.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Reilly". The signature is written in dark ink and is positioned above the printed name and title.

Sharon Reilly
Senior Attorney

SR/yc-s

cc: Sean Hoffman, California District Attorneys Association
Ms. June Clark, Deputy Legislative Secretary, Office of the Governor



JUDICIAL COUNCIL OF CALIFORNIA

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Director, Governmental Affairs

August 18, 2014

Hon. Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 1698 (Wagner) – Request for Signature

Dear Governor Brown:

The Judicial Council is pleased to support AB 1698, which, among other things, requires a court to issue a written order declaring a false or forged instrument to be judged void at its inception when: (a) a defendant is convicted of offering a false or forged instrument for filing; or (b) a defendant enters a plea in which a charge of offering a false or forged instrument is dismissed, but he or she agrees to let the court consider the dismissed charge for purposes of sentencing. The bill additionally requires: (a) the order to state whether the instrument is false, forged, or both, and to describe the nature of the falsity or forgery; (b) a copy of the false or forged instrument to be attached to the court order; and (c) a certified copy of the court order to be filed, registered, or recorded.

The council supports AB 1698 because it increases the efficiency of courts by avoiding costly quiet title actions. Under case law, forged real estate instruments are void ab initio (see *Schiavon v. Arnaudo Brothers* (2000) 85 Cal. App. 4th 374, 379-380); that case law, however, does not extend to false real estate instruments. Moreover, under existing law it is not clear that a court

Hon. Edmund G. Brown, Jr.

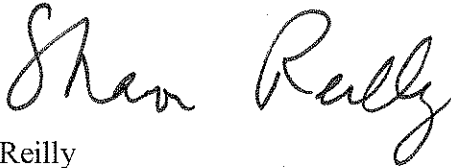
August 18, 2014

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may declare a forged or false instrument void in the context of a criminal proceeding relating to that instrument. Thus, even though a defendant may be convicted of real estate fraud for creating a false deed, that false deed still appears as a cloud on the victim's title to the real estate. The victim's only remedy under current law is to file a quiet title action to remove the cloud, a costly and time-consuming process. By requiring a court to declare a forged or false real estate instrument void in the context of the criminal proceeding, AB 1698 will eliminate the additional burden of a quiet title action on the victim and the court. As a result, the Judicial Council believes that AB 1698 increases the efficiency of courts.

For these reasons, the Judicial Council requests your signature on AB 1698.

Sincerely,

A handwritten signature in black ink that reads "Sharon Reilly". The signature is written in a cursive, flowing style.

Sharon Reilly
Senior Attorney

SR/yc-s

cc: Hon. Donald P. Wagner, Member of the Assembly

Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor