

LEGISLATIVE CHANGE - BOE 100-B REPORTING

by Cameron L. Hess

Good News:

Remember that the BOE-100-B has to be filed for a change in control or change in ownership of a corporation or other legal entity. I told you that it was due the earlier of 45 days of the date of the change or a request for filing by the BOE. If not filed timely, there would be a 10% penalty whether or not a change of ownership actually occurred.

Under SB 507, there is some modest good news. The good news is that the filing time has been extended from 45 days to 90 days.

Keep in mind that the BOE-100-B can be triggered with a merger, it is not limited to a traditional sale/redemption of entity interests.

Bad News:

While most of you don't prepare deeds for your clients (let the attorneys/escrow do it), here is another reason why you should not help here, not even as a favor.

If the client fails to file a change of ownership statement on non-homeowner exemption penalty, the failure to respond to an assessor demand for the statement within 90 days (previously 45 days), now carries a penalty of \$20,000 (previously \$2,500). While the penalty for not filing the statement with the return is small, once demanded, the penalties become substantial. I'd suggest that if a client asks you to help to record a deed, you punt this to anyone else you can find. Also, don't think about doing it for a home either. For a homeowner exemption property, the penalty doubled to \$5,000 if the change of ownership is not timely filed in a response to an assessor request. Yes, I'll concede you might not have to worry if the PCOR statement is filed with the deed, but the assessor can still ask for the "white" Change of Ownership Report, even if the "pink" Preliminary Change of Ownership Report is filed. Don't ask me why, while rare, it sometimes happens.

SB 507, enacted late last year, for a 1/1/12 effective date, amends R&T Code 480, 480.1, 482 and 483. Presumably the BOE will provide some transition rules for demands/changes occurring late 2011.

A copy of the bill may be found at the following address: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0501-0550/sb_507_bill_20111009_chaptered.pdf