

**LAND TITLES AND
BURNT
RECORD ACTS**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649334124

Land Titles and Burnt Record Acts by Various

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Edited by Trieste Publishing Pty Ltd.
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**LAND TITLES AND
BURNT
RECORD ACTS**

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THE McENERNEY ACT OF 1906, AND
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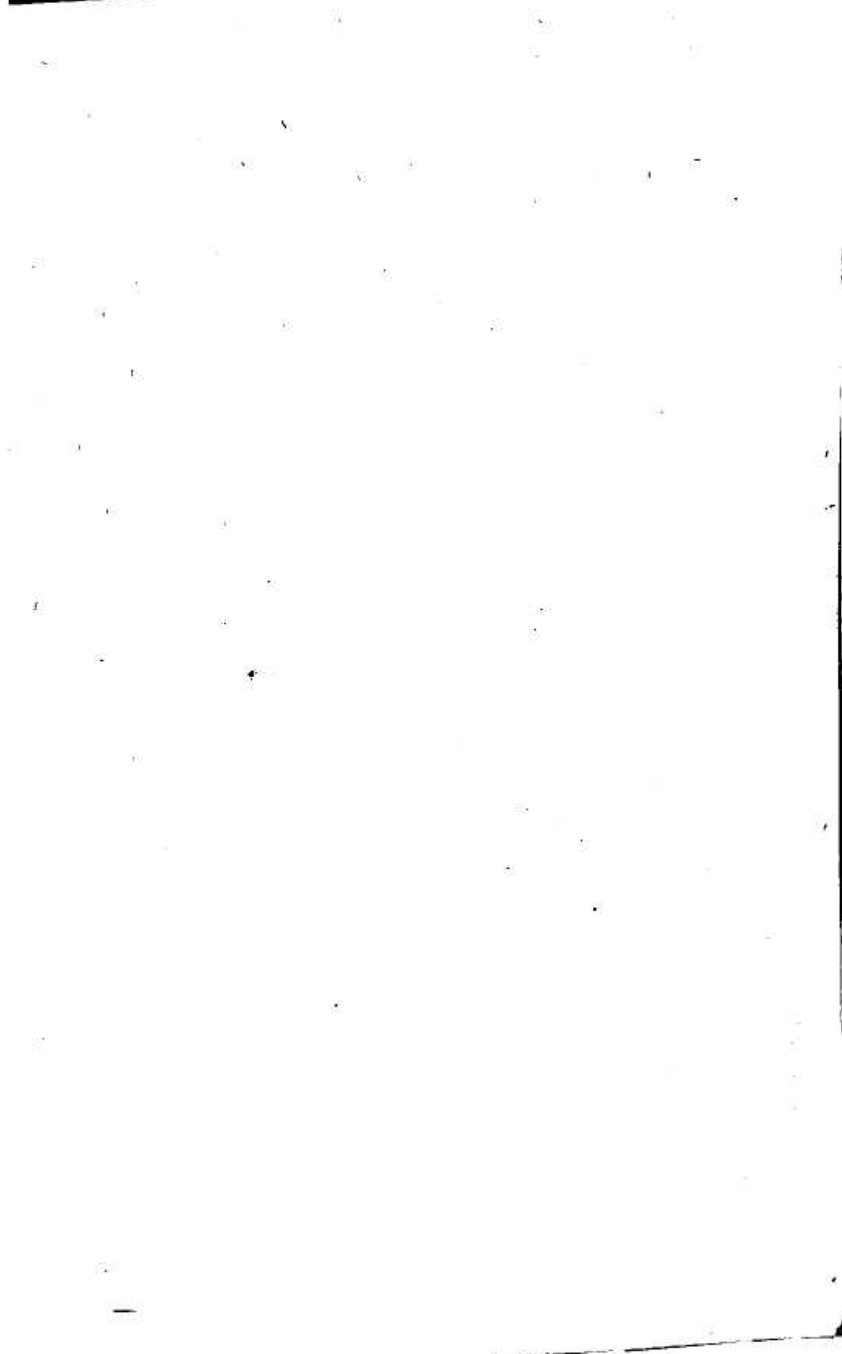
CALIFORNIA BURNT RECORD ACTS.
1906 AND 1907.

THE ILLINOIS AND FEDERAL BURNT
RECORD ACTS.

THE TORRENS LAND ACT.

Compiled and distributed under direction of
C. F. CURRY, Secretary of State.

1907
JW



McENERNEY ACT.

CHAPTER 59.

An act to provide for the establishment and quieting of title to real property in case of the loss or destruction of public records.

[Approved June 16, 1908.]

The people of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whenever the public records in the office of a county recorder have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by flood, fire or earthquake, any person who claims an estate of inheritance, or for life in, and who is by himself or his tenant, or other person, holding under him, in the actual and peaceable possession of any real property in such county, may bring and maintain an action *in rem* against all the world, in the Superior Court for the county in which such real property is situate, to establish his title to such property and to determine all adverse claims thereto. Any number of separate parcels of land claimed by the plaintiff may be included in the same action.

SEC. 2. The action shall be commenced by the filing of a verified complaint, in which the party so commencing the same shall be named as plaintiff, and the defendants shall be described as "all persons claiming any interest in, or lien upon the real property herein described, or any part thereof," and shall contain a statement of the facts enumerated in section one of this act, a particular description of such real property, and a specification of the estate, title, or interest of the plaintiff therein.

SEC. 3. Upon the filing of the complaint, a summons must be issued under the seal of the court, which shall contain the name of the court and county in which the action is brought, the name of the plaintiff and a particular description of the real property involved, and shall be directed to "all persons claiming any interest in, or lien upon the real property herein described, or any part thereof," as defendants, and shall be substantially in the following form:

"In the Superior Court of the State of California in and for the county (or city and county) of _____

	Plaintiff,	}	Action No. —
vs.			
All persons claiming any interest in, or lien upon, the real property herein described or any part thereof,	Defendants.		

The People of the State of California, to all persons claiming any interest in, or lien upon, the real property herein described or any part thereof, defendants, greeting:

SEC. 11. The judgment shall ascertain and determine all estates, rights, titles, interests and claims in and to said property and every part thereof, whether the same be legal or equitable, present or future, vested or contingent, or whether the same consist of mortgages or liens of any description and shall be binding and conclusive upon every person who, at the time of the commencement of the action, had or claimed any estate, right, title, or interest in or to said property, or any part thereof, and upon every person claiming under him by title subsequent to the commencement of the action. A certified copy of the judgment in such action shall be recorded in the office of the recorder of the county in which said action was commenced, and any party or the successor in interest of any party to said action may, at his option, file for record in the office of the recorder of such county the entire judgment roll in said action.

SEC. 12. Except as herein otherwise provided, all the provisions and rules of law relating to evidence pleading practice new trials and appeals applicable to other civil actions shall apply to the actions hereby authorized.

At any time after the issuance of the summons, any party to the action may take depositions therein in conformity to law upon notice to the adverse party sought to be bound by such depositions and who have appeared in the action (if any) and upon notice filed with the clerk. The depositions may be used by any party against any other party giving or receiving the notice (except the clerk) subject to all just exceptions.

SEC. 13. The clerk shall number consecutively in a distinct series all actions hereby authorized and shall keep an index and register thereof devoted exclusively to such actions.

SEC. 14. Whenever judgment in an action hereby authorized shall have been entered as to any real property, no other action relative to the same property or any part thereof maintained under this act shall be tried until proof shall first have been made to the court that all persons who appeared in the first action or their successors in interest have been personally served with the papers mentioned in section 6 of this act either within or without this State more than one month before the time to plead expired.

SEC. 15. An executor, administrator or guardian or other person holding the possession of property in the right of another, may maintain, as plaintiff, and may appear and defend in the action herein provided for.

SEC. 16. The word "county" whenever used in this act includes and applies to a consolidated city and county.

SEC. 17. The remedies provided for by this act shall be deemed cumulative, and in addition to any other remedy now or hereafter provided by law for quieting or establishing title to real property.

SEC. 18. All actions authorized hereby must be commenced before July 1st, 1909.

SEC. 19. This act shall be in force thirty days after its passage.

Declared constitutional in the case of *Title and Document Restoration Co. vs. Kerrigan*, December 7, 1906; S. F. No. 4646. Opinion written by Associate Justice Sloss, and concurred in by Chief Justice Beatty and Associate Justices Angellotti, Henshaw, Shaw, McFarland, and Lorigan.

CHAPTER 517.

An act supplementary to the act approved June 16, 1906, entitled "An act to provide for the establishment and quieting of title to real property in case of the loss or destruction of public records," providing for the making and recordation of notice of ownership or claim to real property.

[Approved March 23, 1907.]

The people of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. In any case where the title to real property might be established or quieted under the provisions of the act to which this act is supplementary, any person or corporation who is or claims to be the owner of such real property or of any interest therein or lien thereon may, by himself or by his agent, duly authorized by letter of attorney theretofore recorded in the office of the county recorder of the county or city and county where such property is situated, sign, verify and file for record in the office of the said county recorder a notice in substantially the following form, to wit:

"Notice of ownership and claim to real property under an act of the legislature of the State of California approved _____ (here insert the date of the passage of this act), _____ 1907.

"Notice is hereby given that _____ (here insert name of claimant) _____, whose residence is at _____ (here insert street and number, city or town, county and state of residence), is the owner of an interest in the real property situated in the _____ (here insert name of city or town if the property be located in a city or town) _____, county of _____ (here insert name of county or city and county in which property is located) _____, State of California, described as follows: to wit: _____ (here insert a particular description of real property)

"The character of the interest in said real property owned by the claimant is _____ (here insert description of the character of interest in or lien upon the real property) _____ and the said interest was obtained from _____ (here insert the name of the party from whom said interest was obtained) _____, and at the time and in the manner following _____ (here insert time at which and manner in which said interest was acquired) _____."

Said notice shall be signed by the claimant or by his agent, as hereinbefore provided, and shall be verified by the oath of the party signing it, to the effect that all of the statements therein contained are true to the knowledge of said party.

SEC. 2. Upon the filing of said notice for recordation the said recorder shall forthwith record said notice in a book devoted exclusively to the recordation of such notices, and shall properly index the same with reference to the name of the claimant, and shall enter upon a map or plat of the parcels of land in the county (which said map or plat shall be kept by him for that purpose and be devoted exclusively thereto), on that part of the map or plat representing the parcel or

parcels described in said notice, a reference to the date of the filing of said notice for recordation, and, when recorded, to the book and page of the record thereof. From and after three days after the filing of said notice for record, all persons who may thereafter begin actions under the provisions of the act to which this act is supplementary, shall be deemed to have notice of the facts stated in said notice, but neither the filing of said notice for record nor its recordation shall be deemed to give constructive notice to any other person or for any other purpose than as herein prescribed. The original of said notice shall remain on file in the office of said county recorder.

SEC. 3. Any person who, from and after three days after the date of the filing of such notice for record, shall begin any action relating to the real property described in such notice, to perfect or establish his title thereto, or to any part thereof, or any interest therein, under the provisions of the act to which this act is supplementary, must name the claimant in such notice, or any person who is a successor in interest of such claimant under a subsequently duly recorded written instrument, judgment or decree, as a party said to claim an interest in or lien upon the property adverse to the plaintiff in such action in the affidavit and in the memorandum appended to the summons provided for in the act to which this act is supplementary, and must cause such claimant, or such successor in interest of such claimant, by virtue of a subsequently duly recorded written instrument, judgment or decree, to be duly served with summons in such action, in the manner provided by the act to which this act is supplementary, otherwise neither the said action nor any judgment or decree which may be given or made therein shall in anywise affect the title or interest in the property described in such notice, owned by the claimant named therein at the time of the filing thereof, or by any successor in interest of such claimant by virtue of a written instrument, judgment or decree duly recorded subsequently to the filing of such notice and prior to the commencement of the action; *provided, however*, that the failure to name said claimant or such successor in interest, as aforesaid, in said affidavit or memorandum, or to serve such claimant or such successor in interest, shall not affect the validity of the judgment or decree rendered in such action as to any other persons, but such judgment or decree shall be valid and binding upon all persons except such claimant or such successor in interest.

SEC. 4. An executor, administrator or guardian, or other person holding the possession of property in the right of another, may make, sign, verify and file for record the notice and affidavit in this act provided for on behalf of the estate or interest which he represents.

SEC. 5. This act shall be supplementary to the act approved June 16, 1906, entitled "An act to provide for the establishment and quieting of title to real property in case of the loss or destruction of public records."

SEC. 6. This act shall take effect immediately.

BURNT-RECORD ACTS.

CALIFORNIA BURNT-RECORD ACTS.

1906 and 1907.

CHAPTER 35.

An act to add a new section to the Political Code of the State of California to be known as section 1696a relating to substitution for school records or contents of school teachers' registers which may have been or shall hereafter be destroyed by conflagration or other public calamity, and providing for the count of average daily attendance in certain high schools and school districts.

[Approved June 14, 1906.]

The people of the State of California, represented in senate and assembly, do enact as follows:

SECTION 1. A new section is hereby added to the Political Code to be known as section 1696a and to read as follows:

1696a. Whenever the school register or registers of any teacher or teachers or other records of any public school district in any school year may have been or shall hereafter be destroyed by conflagration or other public calamity, thereby preventing the teacher or teachers and school officers from making their monthly or annual reports in the usual manner and with accuracy the affidavits of the teacher or teachers, the school principals or other officers of such school district certifying as to the contents of such destroyed registers or other records shall be accepted by all authorities for all school matters appertaining to such school district except that of average daily attendance. The average daily school attendance of any public school district or high school whereof the register or registers of the teacher or teachers or any number of them or other records may have been or shall hereafter be destroyed by conflagration or other public calamity, or whereof, by reason of such conflagration or calamity the regular session or attendance of such district or high school has been interrupted and its average attendance materially affected thereby, shall be its average daily attendance of the next preceding school year increased or diminished by the average yearly percentage of increase or decrease calculated for the next preceding ten years; *provided* that the average daily attendance of such school district or high school for the school year ending June 30, 1906, shall be its average daily attendance for the school year ending June 30, 1905, with five per cent (5%) thereof as increase added thereto.

SEC. 2. This act shall take effect immediately.