



Some Good News for the North Carolina Real Property Lawyer

By Gregory D. Henshaw
Triad Branch Manager and Title Counsel

It has been about nine months since the TILA/RESPA Integrated Disclosure (“TRID”) regulations became the new normal for most real estate transactions in North Carolina. By now, most closing attorneys have handled a TRID closing and are familiar with the requirements and challenges that have arisen with the new federal regulations. We all know that changes in the legal profession are inevitable, but changes in the real property area seem to occur with some regularity, the TRID regulations being the latest. As with all regulatory and statutory changes, the original product is not always perfect. It is often necessary for there to be “cleanup” work to tweak the regulation or statute to make it better for the public and the parties tasked with implementing the regulation or statute. Such a change has recently occurred, and the change is good news for North Carolina real property lawyers.

One challenge created by the TRID regulations involves the timing of delivery of various disclosures to the borrower in a loan transaction. In order to comply with these regulations and prepare the disclosures, lenders must collect all fee information as quickly as possible from the closing attorney. One such fee is the cost to record certain documents at the Register of Deeds Office, such as a deed or deed of trust. Unfortunately for the closing attorney, it is not always clear how many pages are in a lender's deed of trust, which makes determining the fee to record impossible to accurately quote. The result can be money coming out of the closing attorney's pocket or the necessity of sending the borrower a revised disclosure and refund check post-closing. Neither result is ideal for the closing attorney. Now for the good news. On June 30th, the Governor signed Senate Bill 19 into law. This law rewrites NCGS §161-10(a)(1a), said section being named “Uniform fees of registers of deeds.” Beginning on October 1, 2016, the cost to record a deed of trust or mortgage will be a flat fee of sixty-four dollars (\$64.00) for the first 35 pages and four dollars (\$4.00) for each additional page or fraction thereof. This should cover the majority of TRID loans. The cost to record a deed in a purchase transaction will remain the same, as set forth in NCGS §161-10(a)(1), and will be twenty-six dollars (\$26.00) for the first 15 pages and four dollars (\$4.00) for each additional page or fraction thereof. As a result of this change, the fee to record a deed and deed of trust in a purchase transaction can generally be quoted as an even ninety dollars (\$90.00). This fee change will hopefully make the closing of a TRID loan a little easier for both lenders and closing attorneys in North Carolina.

As is always the case with drafting and pushing through “cleanup” legislation, it takes many parties working together to get the ball across the line. In the case of Senate Bill 19, those parties included the North Carolina Land Title Association, the Real Estate Lawyers Association of North Carolina (“RELANC”), the North Carolina Bar Association Real Property Section and the North Carolina

Association of Registers of Deeds (“NCARD”). After much discussion and negotiation, the flat fee schedule as set forth above was presented and voted on in the legislature, and was signed into law soon after. As a part of the negotiations, NCARD has agreed to revisit the issue of uniform fees in the event that this change to NCGS §161-10 does not help to alleviate the uncertainty created by differing numbers of pages for different lenders. In the meantime, enjoy this piece of good news. I hope this change makes the closing process a little easier for all.