



# SENATE BILL 332: Register of Deeds-POA Indexing Fees

**This Bill Analysis  
reflects the contents  
of the bill as it was  
presented in  
committee.**

2015-2016 General Assembly

<b>Committee:</b>	Judiciary II, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House	<b>Date:</b>	July 28, 2015
<b>Introduced by:</b>	Sen. Daniel	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to Second Edition S332-CSRNf-40		Committee Counsel

**SUMMARY:** *Senate Bill 332 would impose an additional fee of \$2 per entity to register or file an instrument with the register of deeds that includes the indexing of more than 20 distinct entities. The Proposed Committee Substitute (PCS) corrects the effective date.*

**CURRENT LAW:** The general fee for registering or filing an instrument with the register of deeds is \$26 for the first 15 pages and \$4 for each additional page or fraction thereof. The register of deeds must register a written instrument presented for registration if all statutory and locally adopted prerequisites for recording have been met. An instrument is not considered registered until it has been indexed in a manner to put a reasonably careful and prudent examiner on notice upon inquiry, and if upon inquiry, the instrument may be found. In addition to the recording and indexing procedures in Chapter 161, the chapter describing the duties and functions of the register of deeds, a register of deeds must follow the rules specifying minimum standards and procedures in land records management adopted by the Department of the Secretary of State.

**BILL ANALYSIS:** A lending institution that is the secured party in a debt instrument that involves a securitized trust pool often includes with the instrument an attachment listing hundreds of "trusts" that may have a limited power of attorney with the lending institution so there is something in the record making a link between a servicer who might sign a loan document and the secured party of record.

It can be hard for registers of deeds to know whether the names on these attachments must be indexed. Although the listed "trusts" do not hold title to the property and will not be searched in connection with the title, the names seem to be required indexed entries under indexing rules. These entries are often hard to decipher as names outside securitized lending. The process of indexing the names is a tedious process that takes hours of time.

Senate Bill 332 would address the issue of indexing each entity listed in a power of attorney by imposing an additional fee to register or file an instrument that indexes more than 20 distinct entities. The additional fee would be \$2 for each entity listed in the instrument. The additional fee is not limited to powers of attorney because to narrow the bill to apply only to powers of attorney would require registers to examine the nature of instruments and try to determine if it is a power of attorney.

Currently, a register of deeds can choose to index the names without having to collect an additional fee, and many choose to index even though it is a tedious process because the register would rather err on the side of indexing the names. Under the bill, a register of deeds must charge an additional fee if the

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register determines the names are required to be indexed, and the presenter of the instrument cannot "waive" the need to index.<sup>1</sup>

**EFFECTIVE DATE:** This act becomes effective October 1, 2015.

Cindy Avrette, Counsel to Senate Finance, contributed substantially to this summary.

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<sup>1</sup> Since the listed trusts do not hold title to the property and will not be searched in connection with the title, it is conceivable that presenters of these instruments may change the forms they file or register with the register of deeds if they are confronted with an expensive filing fee for recording a power of attorney.