



SENATE BILL 332: Register of Deeds-Power of Attorney Indexing Fees

2015-2016 General Assembly

Committee:
Introduced by:
Analysis of: S.L. 2015-227

Date:
Prepared by: Greg Roney
Staff Attorney

SUMMARY: *S.L. 2015-227 imposes an additional fee of \$2 per entity to file an instrument with the register of deeds that includes the indexing of more than 20 entities.*

This act became effective October 1, 2015.

CURRENT LAW: The general fee for filing an instrument with the register of deeds is \$26 for the first 15 pages and \$4 for each additional page. The register of deeds must register a written instrument presented for registration if all statutory and locally-adopted requirements are 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. In addition to the recording and indexing procedures in Chapter 161, a register of deeds must follow the rules specifying minimum standards and procedures in land records management adopted by the Secretary of State.

BILL ANALYSIS: S.L. 2015-227 addresses the issue of indexing each entity listed in a power of attorney by imposing an additional fee to 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.

BACKGROUND: A secured party in a debt instrument that involves a securitized trust pool often records an attachment listing hundreds of "trusts" that may have a limited power of attorney with the secured party. The listing creates a recorded link between a servicer who might sign a loan document and the secured party.

Registers of deeds must determine whether the names on these attachments are required to be indexed. Although the listed "trusts" do not hold title to the property and will not be searched in connection with the title, the "trusts" seem to be required indexed entries. These entries are often hard to decipher. The process of indexing the entries is tedious and may take hours of time.

Currently, a register of deeds can choose to index the entries without having to collect an additional fee, and many choose to index because the register would rather err on the side of indexing the names. Since the "trusts" do not hold title to the property and will not be searched in connection with the title, secured parties may change the forms they file with the register of deeds to avoid the increased fee.

EFFECTIVE DATE: S.L. 2015-227 became effective October 1, 2015.

Brad Krehely and Cindy Avrette, both with the Research Division, substantially contributed to this summary.

Karen Cochrane-
Brown
Director



Research Division
(919) 733-2578

S 3 3 2 - S M T M - 1 0 6 S L