



HOUSE BILL 709: Solicitation for Copies/Reg. of Deeds Fees.

2017-2018 General Assembly

Committee:	House Judiciary II. If favorable, re-refer to Finance	Date:	May 23, 2017
Introduced by:	Reps. Jordan, Stevens, Howard	Prepared by:	Susan Sitze Howard Marsilio Committee Counsel
Analysis of:	First Edition		

OVERVIEW: *House Bill 709 would regulate the solicitation of a fee for copies of documents recorded with registers of deeds offices, and would clarify filing fees for subsequent instruments recorded and related to mortgages and deeds of trust.*

CURRENT LAW:

G.S. 75-1.1 provides that unfair or deceptive acts or practices in or affecting commerce are unlawful. Whether an act or practice is unfair or deceptive usually depends on the facts of each case, but the general test is whether the act or practice has the capacity or tendency to deceive. Chapter 75 provides for the prosecution of such acts by the Attorney General and through private civil actions.

Chapter 161 contains the laws that relate to the register of deeds office, which includes the office's duty to register and index documents presented to it for registration or recording. Filing fees and certified copy fees vary depending on document type, as set by statute in G.S. 161-10.

Currently, the general filing fee for an instrument, not otherwise specified in the statute, is \$26.00 for the first 15 pages, and \$4.00 for each additional page. The general filing fee for a deed of trust or mortgage is \$64.00 for the first 35 pages, and \$4.00 for each additional page.

BILL ANALYSIS:

Section 1 would create a new section in Chapter 75 to regulate the solicitation of a fee for providing copies of recorded instruments. A solicitation, for the purposes of this section, must meet the following requirements:

- The solicitation must contain a conspicuous statement at the top of the solicitation with the following:
 - That the solicitation is not from a State agency or a local unit of government.
 - That no action is legally required by the person being solicited.
 - The fee for obtaining a copy of the record directly from the register of deeds that has custody of the record.
 - The information necessary to contact the register of deeds that has custody of the record.
 - The name and physical address of the person, firm, or corporation soliciting the fee.

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- The solicitation shall not contain language designed to make the solicitation appear to be issued by a State agency or local unit of government, or to appear to impose a legal duty on the person being solicited.
- The fee shall not be greater than four times the amount the register of deeds would charge for a copy of the same record.

A violation of this new section would be an unfair trade practice under G.S. 75-1.1.

Section 2 would clarify that the fees for filing subsequent instruments specifically related to deeds of trust and mortgages, other than cancellations or satisfactions, would be subject to the same fee structure as general instruments.

Section 3 would include an amendment to an instrument and a restated instrument as examples of a "subsequent instrument" within G.S. 161-14.1.

EFFECTIVE DATE: Section 1 of this act would become effective July 1, 2017. The remainder of this act would become effective October 1, 2017, and apply to instruments submitted for registration on or after that date.