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TRID Informational Paper

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www.pria.us/recordsaccess&privacy

*08/27/2015 Disclaimer: This is a proposed-for-adoption draft.
There are still known deficiencies in format which PRIA's Style Committee will clean up following final approval.)*

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On October 3, 2015, the world of your mortgage lenders and settlement agents is going to change and Recorders WILL be affected.

Why Should Recorders Care?

While the Recorder may not be an active, visible party, the Recorder has an effect on every residential closing. If the lender is not able to accurately calculate the correct recording fees and transfer taxes, additional consumer notification paperwork will be required. Lenders are worried about how problems could affect their reputation and their pocketbook. The blame may be directed at the Recorder and your reputation could be impacted.

- The majority of your business partners have new, very detailed federal mortgage lending requirements to follow. TILA-RESPA Integrated Disclosure (TRID) rules are designed to protect homebuyers.
 - ➡ As Recorders, we need to help our business partners in this transition.
- Your constituents/citizens/neighbors could be affected.
 - ➡ If the closing gets delayed and mortgage interest rates increase, this delay may jeopardize the entire transaction. We need to work with the industry to find solutions that will benefit the customers.
- Your office could be responsible for causing millions of dollars in expenses for lenders in your area.
 - ➡ As partners with the lending industry in your community, we can help avoid these expenses.
- If enough settlement agents and mortgage lenders are fined, they could target your recording structure through federal legislation or attempts at new recording fee legislation without your input.
 - ➡ Bankers and mortgage companies have deep lobbying pockets; you don't want to be the reason they're fined, do you?
- Your reputation could be negatively affected.
 - ➡ And we don't want that to happen.

What is the Impact of These Changes?

The lending industry will be keeping score on your local settlement agents. Lenders are required to obtain accurate recording fees and they need timely recordings. If your local agents score poorly, they won't be utilized in the future by the lenders. Lenders could choose not to loan money to citizens in your jurisdiction. Your citizens won't get their home when they wanted it and the process to acquire homeownership may cost more.

The recording industry needs to find solutions now to avoid these issues. Failure to do so presents the risk that lenders and settlement agents will create your future for you. **We are facing the greatest catalyst for change the recording industry has ever experienced.**

The Consumer Financial Protection Bureau (CFPB) is charged with protecting consumers from predatory lenders. The lending industry is very concerned because the CFPB has outlined very stiff fines for not

complying with their rules. If lenders are fined by the CFPB, they may be compelled to look for changes in the recording industry, such as statewide recording systems and standardized recording fees. Legislators will be under pressure to change laws, with or without your input. In fact, several study groups have already been formed (see appendix below).

What Are the Major Issues?

The lender is required to include accurate recording fees and transfer taxes when creating the Loan Estimate. Fees on the Closing Disclosure must match actual fees charged by the Recorder. Recording fee pricing models based on page count and add-on fees are very problematic to the industry. Any variances on fees must be corrected within 30 days of closing.

Let's review an example:

1. Lender is required to provide a loan estimate form within three days of when a consumer provides six (6) pieces of data:
 - a. Consumer's name
 - b. Consumer's income
 - c. Consumer's Social Security number to obtain a credit report
 - d. Address of the property
 - e. Estimate of the value of the property, and
 - f. The mortgage loan amount soughtIt may be difficult for a lender to accurately predict recording fees based on this required information.
2. As the transaction progresses, if recording fees and transfer taxes change (for example, adding or deleting pages and/or names), it will trigger the need for a new estimate form.
3. Once a Closing Disclosure is issued, seven days before the closing, all figures must be accurate and complete. Changes may result in violations subject to fines.
4. The CFPB can issue fines per day of up to \$5,000 for non-intentional violations, \$25,000 for reckless disregard and \$1,000,000 for knowingly violating a law.

What Can Recorders Do?

1. Recognize that recording is an integral part of the broader real estate industry.
2. Talk to your local title/settlement agents/attorneys now regarding their concerns and issues.
3. Talk with your local PREP chapter about the importance of calculating the proper recording fees.
4. Provide recording fee information on your website.
5. Work to provide a flat recording fee for each document type. Several states have implemented some variation of document-specific recording fees; it can be done. Review the appendix for the laws in Arizona,

District of Columbia, Massachusetts, Minnesota, New Mexico, North Carolina, South Dakota, Wisconsin, and Wyoming.

6. Enable eRecording to help submitters comply with the CFPB regulations.
7. Provide online access to recorded documents so they can be quickly and easily accessed. This is crucial for timely updates and reducing problems with the recording gap.

Be part of the solution. Don't risk being blamed for the problem.

Appendix

Background Summary

The Truth in Lending Act ([TILA](#)) was passed in 1968 and, up to this point, had been monitored by the Federal Reserve. The Real Estate Settlement Procedures Act ([RESPA](#)) was passed in 1974 and, up to this point, had been monitored by the Housing and Urban Development Department ([HUD](#)). The real estate industry crisis occurred between 2006-2010. Consequently, [Dodd-Frank Wall Street Reform Legislation](#), which passed in 2010, created the Consumer Financial Protection Bureau ([CFPB](#)). The CFPB now has responsibility for both TILA and [HUD 1](#), as directed by Dodd-Frank, to implement a new Integrated Disclosure ([TRID](#)). Per the Dodd-Frank legislation, lenders are to be held liable for all vendors used in the transaction.

American Land Title Association

The American Land Title Association ([ALTA](#)) created a Best Practices Program to help Title Agents present their readiness to lenders as lenders race to comply with CFPB requirements.

Uniform Law Commission

The [Uniform Law Commission](#) (ULC) has already initiated two study committees, one to focus on [data retrieval systems for land records](#) and the second on [home foreclosures](#), which address components of the CFPB requirements that affect the Recorder's office.

States with Uniform/Flat Recording Fees

[Arizona](#)

[District of Columbia](#)

Massachusetts

<https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleVI/Chapter262/Section38> = Registers of deeds' enumeration of fees

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter44B/Section8> = Community preservation surcharges

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter9/Section31> = Surcharge on fees of registers of deeds to fund improvements at registries

[Minnesota](#)

[New Mexico – Part A](#)

[New Mexico Part B](#)

[North Carolina](#)

[South Dakota](#)

[Wisconsin](#)

[Wyoming](#)