

**NOTICE OF CHANGE IN LAW
AND POSSIBILITY OF SUBSTANTIAL RECORDING FEES
Effective October 1, 2015**

The General Assembly revised the law governing register of deeds recording fees (Session Law 2015-227, revising G.S. 161-10(a)(1)), effective October 1, 2015. This new provision was added to the law:

For an instrument that contains excessive recording data, the fee shall be an additional two dollars (\$2.00) for each party listed in the instrument in excess of 20. An instrument contains excessive recording data when there are more than 20 distinct parties listed in the instrument, including any attachments and exhibits, that require indexing pursuant to G.S. 147-54.3 or this Chapter.

This law was passed to address the excessive burden created by instruments containing many names that appear to be required to be indexed, consuming hours of indexer time and cluttering the indexes. A common form of this type of instrument is a financial institution power of attorney that has long lists of securitized trust agreements and trustees.

State law requires registers to index “the names of all parties” to the instrument. In determining who is a party to an instrument the register relies on what appears in the instrument. If the register determines that a name may be for a party it will be indexed, and if there are more than 20 names the additional fee must be paid. The register will not rely on a presenter’s request that a name not be indexed. To avoid unexpected charges and possible inconsistencies in how different registers make reasonable indexing determinations, drafters should

MAKE CLEAR IN THE INSTRUMENT WHICH OF THE NAMES ARE FOR PARTIES.

Presenters should expect the possibility of paying substantial additional fees if the instrument is unclear.