

WFG Rate and Form Bulletin



To: All Virginia Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: June 26, 2017
Bulletin No: VA 2017-03
Subject: Recording Fee Increases

There were two significant recording fee increases passed by the 2017 Virginia legislature, both effective July 1.

1. Previously, pursuant to §17.1-258.3:1, clerks of court who established electronic recording of land records systems were permitted to charge a fee of up to \$5.00 per document for each e-recording. This protocol was reversed with the addition of Subsection B, which now allows clerks who have e-recording capability to charge up to \$5.00 per document for *paper* filings:

§ [17.1-258.3:1](#). Electronic filing of land records; paper form.

A. A clerk of a circuit court may provide a network or system for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ [55-142.10](#) et seq.) and the provisions of Article 2.1 (§ [55-66.8](#) et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages. ~~The clerk may charge a fee to be assessed for each instrument recorded electronically in an amount not to exceed \$5 per document. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § [17.1-295](#).~~ The clerk may require each filer to provide proof of identity to the clerk. The clerk shall enter into an electronic filing agreement with each filer in accordance with Virginia Real Property Electronic Recording Standards established by the Virginia Information Technologies Agency. Nothing herein shall be construed to prevent the clerk from entering into agreements with designated application service providers to provide all or part of the network or system for electronic filing of land records as provided herein. Further, nothing herein shall be construed to require the electronic filing of any land record, and such records may continue to be filed in paper form.

B. Any clerk of a circuit court with an electronic filing system established in accordance with this section may charge a fee not to exceed \$5 per instrument for every land record filed by paper. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used exclusively to cover the operational expenses as defined in § [17.1-295](#).

C. (Effective July 1, 2017) The clerk shall maintain a disaster plan, as defined in § [42.1-77](#), for recovery of any land record in possession of the clerk that is maintained as an electronic record.

The Hon. John T. Frey, Clerk of the Court in Fairfax County, circulated a letter stating that he would implement the \$5.00 fee “on all **paper** documents/instruments recorded in the land records.” It is unclear if this charge will be imposed on paper judgments, wills, etc. which are not recorded in the deed books.

We recommend that you call the Clerk of the Circuit Court in your jurisdictions to determine if the fee will be charged, and if so, how much it will be. The Clerk will also be able to tell you which e-recording providers are authorized for that County. Those may include:

Simplifile
<https://simplifile.com>
800-460-5657

ePN
www.goepn.com
1-888-325-3365

CSC (Corporation Service Co)
<https://www.cscglobal.com/service/cls/real-estate-recording-services>
1-855-200-1150

2. In 2004, the Virginia Legislature imposed a \$1.00 fee for the benefit of the Virginia Outdoors Foundation as follows:

§ 58.1-817. Fee for open-space preservation.

In addition to all other taxes and fees imposed by this chapter, beginning July 1, 2004, there is hereby imposed a \$1 fee on every deed admitted to record in those jurisdictions in which open-space easements are held by the Virginia Outdoors Foundation. The fee shall be collected as provided in § [58.1-812](#) and the clerk shall deposit all fees collected hereunder into a special fund within the state treasury which shall be created on the books of the Comptroller for this revenue. On a monthly basis, the Comptroller shall distribute all revenue collected from such fee to the Virginia Outdoors Foundation, which shall accept, hold and administer such funds in accordance with its purpose and powers as set forth in Chapter 18 (§ [10.1-1800](#) et seq.) of Title 10.1.

The 2017 legislature amended this statute through the budget process by adding:

Pursuant to §58.1-817, the \$1 recordation fee shall be imposed on each instrument recorded in the proper book for filing of land records in those jurisdictions in which open-space easements are held by the Virginia Outdoors Foundation.

The Explanation attached to the amendment stated:

(This amendment clarifies that the deed recordation fee established in § 58.1-817 applies to instruments and documents recorded in the deed books in the clerk’s offices of the

circuit courts covered by this provision of law. Current *Code* provisions require the fee only be imposed on deeds admitted to record.)

Therefore, if you are in a county or city in which the fee has been collected on deeds, you must now collect the \$1 on deeds of trust, certificates of satisfaction, easements, etc. Initially, there may be some confusion among the clerks about whether or not the fee should be collected on judgments, wills, and other documents that do not get recorded in the deed books because of the language of the amendment; if you have any question about those kinds of items, we again recommend you call the clerk.

Information Bulletins are designed to provide our agents with information we think will help in managing their business or just being better title professionals, but which does not rise to the level of being an underwriting mandate and are not within the scope of the agency agreement.