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An Assessment of Fees Charged by PA County Recordors of Deeds

**Report Presentation by: Patricia Berger, Executive Director and Rick Jones, Counsel
The Legislative Budget and Finance Committee to the Senate Local Government Committee**

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Good morning, Chairman Dush and Chairman Kearney and members of the Senate Local Government Committee. I am Patricia Berger, the Executive Director of the Legislative Budget and Finance Committee, and with me is Rick Jones, Counsel to the Committee. Thank you for inviting us to present a summary of our 2017 report, *An Assessment of Fees Charged by PA County Recordors of Deeds*. House Resolution 2016 -1073 directed the staff of the Legislative Budget and Finance Committee to conduct a review of the fees charged by Pennsylvania's Recordors of Deeds to record documents such as deeds, mortgages, mortgage satisfactions, easements, liens, and numerous other documents relating to real property. The resolution was initiated in response to, at the time, recent changes in federal law regarding real estate transactions that can result in delays and penalties if recording fees are not calculated accurately.

Rick will provide a summary of our findings:

In our 2017 report, we found that recording fees in Pennsylvania can be unpredictable and vary widely from county to county. Although base fees are established by law, in practice fees owed can be difficult to determine because in most counties (Philadelphia and Allegheny Counties are exceptions) the fees are comprised not just of the base fee, but include additional fees based on the number of extra pages, names, parcels, and margin notations in the document. This can be further complicated because other optional county fees may be collected by Recordors if authorized by the county governing authority. These include such fees as a UPI (Uniform Parcel

Identifier) fee, an Affordable Housing fee, and a Blighted Property fee. On top of these local fees, Recorders must collect \$35.50 per document in state surcharges for various judicial fees and \$0.50 per document as a state writ tax. While the Recorders are responsible to collect these state fees and taxes, the monies are then transferred in full directly to the Commonwealth.

Altogether, we found it was typical for consumers to pay between \$60 and \$90 to file both a deed and mortgage, and in some counties, costs can be substantially higher and the cost to consumers is effectively doubled, as typically a buyer needs to file both a deed and a mortgage when purchasing a property.

In addition to the costs, real estate professionals also expressed concern that, due to changes in federal law and regulations relating to the Truth-in-Lending Act and Real Estate Settlement Procedures Act (TILA-RESPA), the unpredictable nature of the recording fee structure can lead to potential delays at settlement and possible penalties under new federal regulations. In brief, to improve the transparency of real estate transactions, all fees must be accurately disclosed to prospective homebuyers in advance of the settlement date. If recording fees change (e.g., by adding or deleting names or pages) or are not accurately calculated, it could delay the timing of the loan settlement and can result in fines of up to \$5,000 per day. This resulted in a nationwide push for states to restructure their recording fees to reduce or eliminate the extent to which fees vary based on factors such as the number of pages, names, or marginal notations in the document.

At the time of our study, fifteen states had enacted “predictable” fees, but the approaches they used differed significantly. The simplest approach, a flat statewide fee for all documents, had been adopted by four states, with fees varying from \$25 to \$30 (with some exceptions). Illinois set a flat fee of \$21 but allowed counties to charge more if they conduct a cost study that justifies the additional fee. Other approaches include Maryland, which had a flat fee of \$60 for deeds and mortgages, but different fees for other documents, and Louisiana, which had different flat fees depending on the number of pages (e.g., \$200 for documents 6-25 pages).

We surveyed all 67 county Recorders of Deeds and asked, among other questions, what approach they most favored if the General Assembly were to move to a predictable fee model. The approach the Recorders of Deeds most preferred, by a wide margin, was to: “Allow County

Recorder of Deeds to set their own base fee up to a legislatively mandated maximum, with counties allowed to include additional fees (such as fees for affordable housing, blight-related demolition, etc.) by ordinance.” While this approach lacks the simplicity of a single statewide fee, it gives counties flexibility and still allows lenders and settlement agents the ability to have a predictable fee, as they would only need to know the type of document being recorded and the county in which the property is located to determine the fee.

Based on these findings, we therefore recommended the legislature set a statewide base fee for counties other than Philadelphia and Allegheny at approximately \$20 for deeds, mortgages, mortgage satisfactions, and other documents that are subject to the \$35.50 state judicial surcharge. These documents are the ones most involved in property settlements and therefore would address the federal TILA-RESPA issue. We also recommended the legislature allow counties the authority to increase the \$20 base fee to as much as approximately \$40 upon the written recommendation of the Recorder of Deeds in conjunction with an ordinance of the county’s governing body. This would allow counties to charge as little as \$61 for the total cost of a deed or mortgage (\$20 base + \$5 county records improvement fund + \$36 state taxes and surcharges) and allow other counties to charge as much as \$130 per deed or mortgage (\$40 base + \$5 county records improvement fund + \$20 UPI fee + \$13.50 affordable housing fee + \$15 blighted property fee + \$36 state taxes and surcharges), which is more than all counties except Philadelphia and Allegheny now charge.

Under this plan, additional charges based on page count, number of names, number of parcels, or marginal notations would be eliminated for those documents subject to the state judicial surcharge, but there would be no change in the fees Recorders charge for other documents, such as oil and gas leases or powers of attorney.

In closing, we again want to thank the individual state Recorders of Deeds for the assistance provided to us during our 2017 study, especially those who responded to our survey. We also appreciate the cooperation afforded us by the PA Recorders of Deeds Association as well as by other stakeholder groups.