



110 Horizon Drive, Suite 210, Raleigh, NC 27615
919.459.2081

Predictable Recording Fees - Background

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Table of Contents

| | |
|---|---|
| Introduction | 1 |
| What Are Predictable Recording Fees? | 2 |
| Advantages of Predictable Recording Fees..... | 3 |
| Potential Impact and Barriers | 4 |
| Stakeholder Benefits..... | 5 |
| Conclusion..... | 6 |

Introduction

Document recording fees represent a very small percentage of the closing costs associated with a real estate transaction. However, if the recording fee is calculated incorrectly it may adversely affect the closing. Implementing predictable recording fees may reduce and eliminate unnecessary delays, rejections, and penalties.

Several states across the country adopted some version of a predictable recording fee, and some states are actively exploring this option. The Property Records Industry Association (PRIA) endorses the predictable recording fee concept and encourages states to evaluate this approach.

What Are Predictable Recording Fees?

A predictable recording fee is a fee which may be reliably and consistently estimated by a submitter for a specific document type or recording jurisdiction(s).

For example, a fee could be considered a predictable recording fee if it is not dependent on elements of the document that may change during the residential loan origination process, such as page count, number of parcels, name count and associated document references. It should be noted that more consistent recording fee policies within a region or state may also positively improve the predictability of recording fees.

There are various terms applied to the concept of predictable recording fee structures: uniform, flat-rate, predictable. These terms are often used interchangeably and for the purposes of this paper all refer to the concept of one document, one fee.

The states implemented predictable fee structures in multiple ways. What works for one state may not work for another.

1. Uniform price for all document types (one price for everything);
2. Price based on document type;
3. Uniform or document type pricing with exceptions, such as page count limits, parties to be indexed, cross references, non-standard, as set by the state or recording jurisdiction;
or,
4. Flat or uniform fees based on county population.

Refer to the Toolkit (upon approval) to review what some states did to determine applicability for your state.

Advantages of Predictable Recording Fees

There are a number of potential advantages associated with efforts to improve the predictability of recording fees.

- **BENEFITS:** Predictable recording fees may provide benefits for both recorders and their business partners. If submitters effectively predict recording fees, they may see a reduction in errors or document rejections. For recorders, predictable fees may reduce rejections for shortages and overages, resulting in cost savings in labor, postage and office supplies.
- **PREDICTABILITY:** Proactively exploring ways to increase the predictability of fees with stakeholders may strengthen relationships between the business and government sectors. This relationship is consistent with the PRIA mission to work together to address problems and opportunities in the real property industry.
- **SAVINGS:** Being able to effectively predict recording fees may save time and money for the consumer, the recorder, and the submitter.
- **EXPEDIENCIES:** Improving the predictability of recording fees may help consumers avoid delays in closing and reduce recording fee changes or the need for disclosures to be re-executed.

Potential Impact and Barriers

The consideration of policy changes that are designed to improve the predictability of recording fees may require recorders and industry representatives to address a number of issues. If an effort to improve the predictability of fees involves a change in fee policy, as has been implemented in some states, there may be additional challenges.

- **LACK OF UNDERSTANDING:** A lack of understanding of the fee policy change being proposed and the associated benefits to all parties.
- **FEE INCREASES:** The impact of any fee increases to individual customers based on document type or other factors.
- **PERCEPTIONS:** The perception of legislators who may interpret fee changes as either additional taxes or additional revenue.
- **CONSTRAINTS:** Constraints that limit the ability of a region or state to adjust the recording fee.
- **BUDGETS:** The potential impact that the implementation of a predictable fee may have on recording jurisdiction budgets. Fee policy changes to improve the predictability of fees are not intended to negatively affect local budgets.

Stakeholder Benefits

Recorders did not create the challenges that now exist in the industry, but recorders may help overcome hurdles in today's real estate closing environment. Federal government regulations require lenders to accurately disclose all fees in the loan estimate. If a loan estimate does not closely match the closing disclosure, a closing may be delayed and could result in increased costs to lenders and consumers.

Predictable fees may provide benefits to all parties in a real estate transaction.

For **RECORDERS**, predictable fees may:

- Eliminate page count calculations, thus reducing rejections;
- Improve accuracy of budget revenue estimates;
- Reduce training time on all the recording fees for recording staff;
- Reduce questions from staff and customers on interpreting fees;
- Reduce postage costs for rejected documents because of payment discrepancies; and,
- Eliminate or reduce recording fee refunds.

For **CONSUMERS**, predictable fees may:

- Prevent additional paperwork;
- Prevent delays in closing; and,
- Make closing costs more transparent and easier to understand.

For **LENDERS**, predictable fees may:

- Improve the accuracy of recording fee estimates;
- Prevent delays in closing; and,
- Reduce training time on all the recording fees for staff.

Conclusion

There is no one solution that fits all situations. Recorders, lenders, and stakeholders should work together to consider fee policy changes to improve the recording process, save time, increase efficiency and cost effectiveness, for consistency and predictability.