

Jumping Into the Future: New Jersey's New Recording Law

by Bob Marsico on May 16, 2012

Early in 2012, the State of New Jersey took a significant step into the future by adopting a thorough update of the state's decades old document recording statute. The new law, which was signed by Governor Christie on January 17, 2012, has been codified at *N.J.S.A. 46:26A, 26B and 26C*. It is the product of several years of discussions and lobbying efforts by the New Jersey title insurance industry and others seeking to modernize state recording law to address evolving technological changes. The new law contains a number of statutory changes allowing electronic recordation of documents, modifying recordation practices and Notice of Settlement procedures, and setting the stage for standardization of recording fees in the future.

First, the new law provides a basis upon which electronic recordation of documents may be effectuated in the future. The term "Document" now includes "electronic documents, documents created, communicated or stored by electronic means". The statute also provides that the Division of Archives and Records Management in the New Jersey Department of State will be responsible for promulgation of regulations establishing format and technical requirements for recorded documents "to foster state-wide conformity in title recordation."

Among the changes to existing practice contained in the new statute is the implementation of a new cover sheet (or an electronic synopsis, for electronic filing) containing information such as the nature of the document, date of the document, names of the parties and, if the document is a deed, various transaction information. The form for this cover sheet will be determined by the Division of Archives and Records Management. Failure to submit the cover sheet or electronic synopsis entitles the recording office to charge an additional \$20 for additional indexing costs. The use of cover sheets by county recording officers must be implemented by each county within the next 5 years.

Another change of practical significance to the real estate community is an extension of the time period covered by the Notice of Settlement. As New Jersey real estate professionals are aware, the "Notice of Settlement" is a unique New Jersey statutory creation which allows purchasers and mortgage lenders to give the world notice of a pending property transfer or mortgage transaction, and thereby "hold its place in line" against intervening liens or interests arising during the period between the recording of the Notice of Settlement and the date the deed or mortgage is recorded. The new law extends the life of the Notice of Settlement to 60 days (under the old law it was 45 days), and permits one additional 60-day extension.

The new statute also requires that county recording officers record and index all documents and maps accepted for recording within 2 business days after receipt, and that all rejected documents and maps be returned (with a statement of grounds for rejection) within 3 business days after receipt.

Finally, the new law contains a set of provisions to be implemented over a 5 year period, requiring the Division of Archives and Records Management and the Department of Treasury to study and review document recording volumes and fees charged, and to provide the findings to the New Jersey Legislature, so that standard per document filing and recording fees can be considered.

The new law, which became effective on May 1, 2012, signals a significant change in the way documents will be recorded in the future. If you have any questions concerning the new law or its impact on transactions, we recommend that you consult an experienced New Jersey real estate lawyer.