

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 265

Short Title: Register of Deeds Omnibus.

(Public)

Sponsors: Senators Swain, Johnson of Wake; Winner and Raynor.

Referred to: Judiciary III.

February 23, 1989

A BILL TO BE ENTITLED

AN ACT CONCERNING RECORDING OF INSTRUMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 161-10(a) reads as rewritten:

"(a) Except as provided in G.S. 130-40 or G.S. 161-11.1, all fees collected under this section shall be deposited into the county general fund. In the performance of his duties, the register of deeds shall collect the following fees which shall be uniform throughout the State:

(1) Instruments in General. – For registering or filing any instrument for which no other provision is made by this section, whether written, printed, or typewritten, the fee shall be five dollars (\$5.00) for the first page, which page shall not exceed 8 1/2 inches by 14 inches, plus two dollars (\$2.00), for each additional page or fraction thereof. A page exceeding 8 1/2 inches by 14 inches shall be considered two pages.

~~If When a document is presented for registration, or filing, registration that consists of two or more instruments and the first page of the document shows the title of each instrument contained in the document, multiple instruments, the fee shall be ten dollars (\$10.00) for each additional instrument. The register of deeds shall not be required to index any instrument that is a part of a document containing multiple instruments unless the title of that instrument is shown on the first page of the document.—~~A document consists of multiple instruments when it contains two or more instruments with different legal consequences or intent, each of which could be

1 ~~registered or filed alone.~~ is separately executed and acknowledged and
2 could be recorded alone.

- 3 (2) Marriage Licenses. – For issuing a license – twenty dollars
4 (\$20.00); for issuing a delayed certificate with one certified copy –
5 five dollars (\$5.00); and for a proceeding for correction of names in
6 application, license or certificate, with one certified copy – five
7 dollars (\$5.00).
- 8 (3) Plats. – For each original or revised plat recorded – nineteen dollars
9 (\$19.00); for furnishing a certified copy of a plat – three dollars
10 (\$3.00).
- 11 (4) Right-of-Way Plans. – For each original or amended plan and profile
12 sheet recorded – five dollars (\$5.00). This fee is to be collected from
13 the Board of Transportation.
- 14 (5) Registration of Birth Certificate One Year or More after Birth. –For
15 preparation of necessary papers when birth to be registered in another
16 county – five dollars (\$5.00); for registration when necessary papers
17 prepared in another county, with one certified copy – five dollars
18 (\$5.00); for preparation of necessary papers and registration in the
19 same county, with one certified copy – ten dollars (\$10.00).
- 20 (6) Amendment of Birth or Death Record. – For preparation of
21 amendment and affecting correction – two dollars (\$2.00).
- 22 (7) Legitimations. – For preparation of all documents concerned with
23 legitimations – seven dollars (\$7.00).
- 24 (8) Certified Copies of Birth and Death Certificates and Marriage
25 Licenses. – For furnishing a certified copy of a death or birth
26 certificate or marriage license – three dollars (\$3.00). Provided
27 however, a Register of Deeds may issue without charge a certified
28 Birth Certificate to any person over the age of 65-62 years.
- 29 (9) Certified Copies. – For furnishing a certified copy of an instrument for
30 which no other provision is made by this section – three dollars (\$3.00)
31 for the first page, plus one dollar (\$1.00) for each additional page or
32 fraction thereof.
- 33 (10) Comparing Copy for Certification. – For comparing and certifying a
34 copy of any instrument filed for registration, when the copy is
35 furnished by the party filing the instrument for registration and at the
36 time of filing thereof – two dollars (\$2.00).
- 37 (11) Uncertified Copies. – When, as a convenience to the public, the
38 register of deeds supplies uncertified copies of instruments, or index
39 pages, he may charge fees that in his discretion bear a reasonable
40 relation to the quality of copies supplied and the cost of purchasing
41 and maintaining copying and/or computer equipment. These fees may
42 be changed from time to time, but the amount of these fees shall at all
43 times be prominently posted in his office.

- 1 (12) Acknowledgment. – For taking an acknowledgment, oath, or
2 affirmation or for the performance of any notarial act – one dollar
3 (\$1.00). This fee shall not be charged if the act is performed as a part
4 of one of the services for which a fee is provided by this subsection;
5 except that this fee shall be charged in addition to the fees for
6 registering, filing or recording instruments or plats as provided by
7 subdivisions (1) and (3) of this subsection.
- 8 (13) Uniform Commercial Code. – Such fees as are provided for in Chapter
9 25, Article 9, Part 4, of the General Statutes.
- 10 (14) Torrens Registration. – Such fees as are provided in G.S. 43-5.
- 11 (15) Master Forms. – Such fees as are provided for instruments in general.
- 12 (16) Probate. – For certification of instruments for registration as provided
13 in G.S. 47-14 – one dollar (\$1.00).
- 14 (17) Qualification of Notary Public. – For administering the oaths of office
15 to a notary public and making the appropriate record entries as
16 provided in G.S. 10-2 – five dollars (\$5.00).
- 17 (18) Reinstatement of Articles of Incorporation. – For filing reinstatements
18 of Articles of Incorporation prepared pursuant to G.S. 105-232; such
19 fees as provided for instruments in general. The fee shall be paid by
20 the corporation affected."

21 Sec. 2. G.S. 161-22(a) reads as rewritten:

22 "(a) The register of deeds shall provide and keep in her or his office full and complete
23 alphabetical indexes of the names of the parties to all liens, grants, deeds, mortgages,
24 bonds, and other instruments required or authorized to be registered, and such indexes
25 shall state in full the names of all parties, whether grantors, grantees, vendors, vendees,
26 obligors, or obligees. Reference shall be made, opposite each name, to the book and
27 page or other location where the instrument is registered. All instruments shall be
28 indexed on either the temporary or permanent index within 24 hours of registration.
29 The register of deeds shall not be required to index an instrument that is part of a
30 document containing multiple instruments, as defined in G.S. 161-10(a)(1), unless the
31 title of that instrument is shown on the first page of the document and the additional
32 registration fee is paid as required by G.S. 161-10(a)(1)."

33 Sec. 3. G.S. 25-9-401(5) reads as rewritten:

34 "(5) A filing which is made in the proper place in this State prior to January 1, 1985,
35 continues to be effective even though under this section the place of filing has been
36 changed. The effectiveness of any financing statement or continuation statement filed
37 prior to January 1, 1985, may be continued by a continuation statement or amended as
38 permitted by the Uniform Commercial Code, except that if this section requires a filing
39 in an office where there was no previous financing statement, a new financing statement
40 meeting the requirements of this section shall be filed in that office. Such new financing
41 statement operating as a continuation statement may be filed within six months before
42 the perfection of the security interest would otherwise lapse. Any such financing
43 statement may be signed by either the debtor or the secured party. It shall identify the
44 original financing statement and any amendment or continuation thereof, state the office

1 where and the date when each filing was made, and state the filing number ~~thereof~~
2 thereof and also by the most current file number if any continuation was filed."

3 Sec. 4. G.S. 25-9-403(3) reads as rewritten:

4 "(3) A continuation statement may be filed by the secured party within six months
5 prior to the expiration of the five-year period specified in subsection (2). Any such
6 continuation statement must be signed by the secured party, identify the original
7 statement by file number and also by the most current file number if any continuation
8 was filed and state that the original statement is still effective. A continuation statement
9 signed by a person other than the secured party of record must be accompanied by a
10 separate written statement of assignment signed by the secured party of record and
11 complying with subsection (2) of G.S. 25-9-405, including payment of the required fee.
12 Upon timely filing of the continuation statement, the effectiveness of the original
13 statement is continued for five years after the last date to which the filing was effective
14 whereupon it lapses in the same manner as provided in subsection (2) unless another
15 continuation statement is filed prior to such lapse. Succeeding continuation statements
16 may be filed in the same manner to continue the effectiveness of the original statement.
17 Unless a statute on disposition of public records provides otherwise, the filing officer
18 may remove a lapsed statement from the files and destroy it immediately if he has
19 retained a microfilm or other photographic record, or in other cases after one year after
20 the lapse. The filing officer shall so arrange matters by physical annexation of financing
21 statements to continuation statements or other related filings, or by other means, that if
22 he physically destroys the financing statements of a period more than five years past,
23 those which have been continued by a continuation statement or which are still effective
24 under subsection (6) shall be retained. Any continuation statement which is not filed in
25 accordance with the requirements set forth herein and during the stated time periods set
26 forth above shall be invalid."

27 Sec. 5. G.S. 25-9-404(1) reads as rewritten:

28 "(1) If a financing statement covering consumer goods is filed on or after July 1,
29 1976, then within one month or within 10 days following written demand by the debtor
30 after there is no outstanding secured obligation and no commitment to make advances,
31 incur obligations or otherwise give value, the secured party must file with each filing
32 officer with whom the financing statement was filed a termination statement to the
33 effect that he no longer claims a security interest under the financing statement, which
34 shall be identified by file ~~number.~~number and also by the most current file number if
35 any continuation was filed. In other cases whenever there is no outstanding secured
36 obligation and no commitment to make advances, incur obligations or otherwise give
37 value, the secured party must on written demand by the debtor send the debtor, for each
38 filing officer with whom the financing statement was filed, a termination statement to
39 the effect that he no longer claims a security interest under the financing statement,
40 which shall be identified by file ~~number.~~number and also by the most current file
41 number if any continuation was filed. A termination statement signed by a person other
42 than the secured party of record must be accompanied by a separate written statement of
43 assignment signed by the secured party of record and complying with subsection (2) of
44 G.S. 25-9-405, including payment of the required fee. If the affected secured party fails

1 to file such a termination statement as required by this subsection, or to send such a
2 termination statement within 10 days after proper demand therefor, he shall be liable to
3 the debtor for one hundred dollars (\$100.00), and in addition for any loss caused to the
4 debtor by such failure."

5 Sec. 6. G.S. 25-9-405(2) reads as rewritten:

6 "(2) A secured party may assign of record all or part of his rights under a
7 financing statement by the filing in the place where the original financing statement was
8 filed of a separate written statement of assignment signed by the secured party of record
9 and setting forth the name of the secured party of record and the debtor, the file number
10 and also the most current file number if it has been continued and the date of filing of
11 the financing statement and the name and address of the assignee and containing a
12 description of the collateral assigned. A copy of the assignment is sufficient as a
13 separate statement if it complies with the preceding sentence. On presentation to the
14 filing officer of such a separate statement, the filing officer shall mark such separate
15 statement with the date and hour of the filing. He shall note the assignment on the
16 Uniform Commercial Code index of the financing statement, and in the case of a fixture
17 filing, or a filing covering timber to be cut, or covering minerals or the like (including
18 oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, he shall index in the
19 real estate index the assignment under the name of the assignor as grantor and, to the
20 extent that the law of this State provides for indexing the assignment of a mortgage
21 under the name of the assignee, he shall index the assignment of the financing statement
22 under the name of the assignee. The uniform fee for filing, indexing, and furnishing
23 filing data about such a separate statement of assignment is eight dollars (\$8.00).
24 Notwithstanding the provisions of this subsection, an assignment of record of a security
25 interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6)
26 of G.S. 25-9-402) may be made only by an assignment of the mortgage in the manner
27 provided by the law of the State other than this Chapter."

28 Sec. 7. This act shall become effective July 1, 1989.