



## **CHICAGO BULL**

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### **Commercial and Residential Attorneys: Are you e-recording yet? If not, why not?**

With an increasing number of counties accepting e-recording, many firms are beginning to e-record at most or all closings in those counties. Why?

- For those with several residential closings per day, especially if the firm's office is remote from the courthouse, this limits the time lost in transport for multiple trips to and from the courthouse – just have your title examiner there handling the updates while you can “submit” from your desktop.
- For commercial closings, this can substantially decrease the gap between expected funding and recording.
- For multi-county closings, this can reduce the logistics of getting between all the counties in a day or less.
- For closings in which a notarial certificate or other “error” is noticed and the document rejected, this can expedite the time in finding this out and correcting the problem, right in your office.
- Typically, you know within 30 minutes of submission (depending on the county) whether all of your documents were accepted or rejected (and, if rejected, why) - expediting your ability to complete the closing! (Visualize happy Realtors!)
- As soon as you have the confirmation of recording, you have immediate access to “recorded” instruments – the original still in your hands and the recording confirmation via computer - expediting your ability to complete the closing package and the final title opinion!

As noted by Emily Gallimore\* with the firm of Wyatt Early Harris Wheeler, LLP:

“In general, our experience has been excellent and all the real estate attorneys (commercial and residential) in our firm use it. In August we recorded over 300 documents. It allows us to save a lot of time by saving trips to the ROD office. ... The cost to us is very low.”

Given the number of years of technological development and the number of firms using e-recording – in North Carolina and across the country – it has become a reliable standard of practice. As noted by Gallimore, “When it comes to updating title, we take the same precautions when e-recording as when recording in person.”

Yes, there are still a few limitations.

- Some counties do not have e-recording.
- Some counties do not even have on-line complete records.

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- Know the procedures in the county or counties of recording to be sure you understand how current their on-line indexes are and can adjust for necessary updates and local requirements.
- Vendors working with a particular county vary. So the attorney must verify which one(s) can be used for the particular county or counties in which your firm will be e-recording.
- Recording fees are paid using an intervening swipe account which can be cumbersome, but now sanctioned under the Good Funds Settlement Act.
- Since the documents are sent in packets for a particular closing, limitations of only 10 documents per packet can be cumbersome in complex commercial transactions. So subordinations and documents that are not essential to the time-of-closing priority under GS 47-18 and GS 47-20 may need to be in second or third packets.
- Some registry indexes are behind, *even in person*, which can be a risk with personal recording as well as e-recording. Having a title examiner on-site at the courthouse can minimize this risk if the on-line registry is substantially behind the courthouse on-site registry, while still avoiding the travel time delays. As one attorney noted, “This saves us 30 minutes to and 30 minutes from the courthouse (including time to park and get between the various buildings and offices) for every single closing.”

The primary vendors in North Carolina, many of whom identify on their websites the counties in which they are available and provide information, include:

[CSC](#) (Corporation Service Company)  
[Electronic Document Logistics](#)  
[eRecording Partners Network](#)  
[Indecomm Global Services](#)  
[Simplifile](#)

North Carolina was well-served by having adopted the mandatory statutory indexing standards over 20 years ago as well as having adopted URPERA and the electronic notary act nearly 10 years ago. So now both the legal and the physical infrastructure are in place for this new age in recording.

Better yet, this facilitates attorneys’ ability to demonstrate to lenders compliance with Pillar #4 of the Best Practices!

\*Gallimore appeared on a panel discussing e-recording in more detail at the Real Property Section CLE presentation in February 2015.

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