

# Recording Procedures (VA)

A Practical Guidance® Practice Note by Terry L. Fox and Faisal Moghul, Fox & Moghul



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Recording a real estate document in Virginia entails filing an original or electronic copy of the document with the office of the county recorder in the county where the real property is located. This practice note outlines the requirements for recording real estate documents in Virginia. Brief overviews of the purpose of recording real estate documents and the statutory rules for establishing priority of interests in Virginia are also included.

For additional guidance on recording real property documents, see [Recording Real Property Documents](#).

## Purpose of Recording and Priority

Recording is an act of putting a document into official county records. The purpose of recording a real estate instrument is to provide a traceable chain of title to the property, thus providing constructive notice of ownership to the general public.

Virginia is considered to have a race-notice recording statute to determine priority of title. Virginia's recording act gives priority of title to the party that records first, but only if the party also lacked notice of prior unrecorded claims on the same property. Another way to look at this is that a later buyer who pays fair value, who does not have notice of any earlier conflicting interests, and records first, has priority over any subsequent instrument recorded in the land records. Therefore, it is important to record instruments promptly, because the race-notice statute allows a subsequent purchaser without notice of a prior interest to take title free from that interest if the subsequent purchaser wins the race to record.

For Virginia statutes governing recording, see Va. Code Ann. §§ 17.1-223 through 17.1-254 and Va. Code Ann. §§ 55.1-600 through 55.1-666. For a detailed discussion of the purposes of recording statutes, see [Recording Real Property Documents](#).

## Commonly Recorded Documents

Real estate documents commonly recorded in Virginia, according to Va. Code Ann. § 17.1-227, include:

- Deeds
- Deeds of trust
- Deeds of release
- Certificates of satisfaction or partial satisfaction
- Quitclaim deeds
- Homestead deeds
- Grants

- Transfers and mortgages of real estate or releases of such mortgages
- Powers of attorney to convey real estate
- Leases of real estate
- Notices of lis pendens
- Mechanic's liens, easements, and rights-of-way
- All contracts in reference to real estate, which have been acknowledged as required by law
- Certified copies of final judgments or decrees of partition affecting the title or possession of real estate
- All other writings relating to or affecting real estate which are authorized to be recorded

## Requirements for Recordable Documents

### General Requirements

Cover sheets may be required for documents recorded at the Land Records counter or through the mail. See Va. Code Ann. § 17.1-227.1. Each county or city may have different requirements for the cover sheet. The cover sheet is designed so that indexing information entered on the cover sheet form is translated into a 2-D barcode. Pursuant to Va. Code Ann. § 17.1-227.1, each cover sheet must contain the following information:

- The name of each party to be indexed as grantor and the name of each party to be indexed as grantee and, in the case of any individual grantor or grantee, the surname of each individual identified as such
- In the case of a deed or other instrument described in Va. Code Ann. § 58.1-801 (discussing recordation taxes) or Va. Code Ann. § 58.1-807 (recordation of contracts, leases, etc.), the amount of the consideration and the actual value of the property conveyed
- Pursuant to Va. Code Ann. § 17.1-227.1, the Virginia or federal law under which any exemption from recordation taxes is claimed (Virginia Code sections relating to recordation taxes and exemptions begin at Va. Code Ann. § 58.1-800)
- If required under Va. Code Ann. § 17.1-252, the tax map reference number or numbers, or the parcel identification number (PIN) or numbers, of the affected parcel or parcels –and–
- The name and current address of the person to whom the instrument should be returned after recordation

Pursuant to Va. Code Ann. § 55.1-606, all writings must be an original or first-generation printed form or legible copy. Any instrument that is typed, handwritten, signed, or notarized in “red” or “yellow” ink will not be accepted, as red and yellow are not photographically reproducible. The requirements regarding paper include:

- Size may be 8½ x 11 inches to 8½ x 14 inches
- Must be white and unglazed
- Print must be in black, solid, and uniform
- The print size must be nine-point or larger, and the typing size may be elite (12 characters per inch) or pica (10 characters per inch)
- Margins must be a minimum of one inch on the top, left, and bottom, and a minimum of a half inch on the right
- Dot matrix and facsimile paper will not be accepted
- Plats or maps must be between 8½ x 11 inches to 18 x 24 inches in size and must have a clear white background with dark blue or black inscriptions
- Pages must be numbered sequentially on all documents

### Acknowledgment

All deeds, including deeds of trust to secure debts, shall be prepared according to the requirements in Va. Code Ann. § 55.1-300 and § 55.1-316.

All names to be indexed must be identified as grantor, grantee, trustee, or beneficiary. There must be indication as to which names are the grantors and grantees. All deeds require a grantor's current business or residence address in the left-hand margin of the first page of the document. All deeds of trust must include the full residence or business address of the trustee or trustees, including the street address and zip code.

All documents to be recorded or docketed must be an original or first-generation printed form, or legible copy thereof. All signatures must be original, signed in black or blue ink. Names must be typed or printed under the signature. All signatures must be notarized. Court certified copies are acceptable with the appropriate clerk signature and seal. See Va. Code Ann. §§ 8.01-389, 17.1-227, 55.1-600, 55.1-606, 55.1-651, 55.1-652.

Notarized documents must include a notarial statement of acknowledgment, the date and the location of the notarial act, the expiration of the notary's commission, the notary's signature, a photographically reproducible notary seal/stamp and if applicable by the state, the notary's registration number. See Va. Code Ann. §§ 55.1-612, 47.1-2, 47.1-16.

## Other Requirements

A deed must state the jurisdiction where the property is located and be recorded in that jurisdiction. A land description (also known as a “legal description”) consists of the written words which delineate a specific piece of real property. In the written transfer of real property, it is universally required that the instrument of conveyance include a written description of the property by metes and bounds or lot and block. In addition, a tax map number or PIN is required on all deeds or other instruments conveying or relating to an interest in real property. See Va. Code Ann. § 17.1-252.

All refinance deeds of trust must include the refinancing statement on the first page of the trust. The instrument shall certify the deed book and page number of the recorded instrument on which the tax for the original debt was paid. See Va. Code Ann. § 58.1-803(E).

All modifications of trusts must include the original loan amount and the deed book and page number of the recorded instrument on which the tax for the original debt was paid. See Va. Code Ann. § 58.1-803(D).

## Recording Mechanics

Pursuant to Va. Code Ann. § 55.1-600, a real estate instrument, such as a deed, mortgage, and easement, needs to be recorded in the circuit court of any county or city where the property is located. A Virginia Circuit Court’s Land Records Division or a clerk’s office is usually the court division dealing with real estate instruments recordation and records documents in a book known as the deed book. As provided in Va. Code Ann. §§ 17.1-223 through 17.1-249, the clerk’s office must mark the document with the day and time of recording and must maintain an index of recorded documents organized by grantor, grantee, or both. Additionally, the clerk may refuse to record any document containing a social security number. The general public may obtain information concerning recording procedures in each county in Virginia by calling the Land Records Division or the Clerk’s Office.

All documents recorded in the Land Records Division will be returned upon completion of the verification process. A self-addressed, stamped envelope must be included with the recordation. The name and address of where the document should be returned to must be located on the cover sheet. If your office has a mailbox located in the Land Records Division, you may simply write the appropriate mailbox number on the cover sheet. The original document(s) will be returned to your mailbox upon completion of the verification process.

## Electronic Recording

Electronic recording is available in many Virginia counties and is authorized by the Uniform Real Property Electronic Recording Act, Va. Code Ann. §§ 55.1-661 through 55.1-666. However, in some counties, the county recorder still requires that the recording party present the original documents for recordation. Best practice is to contact the local county recorder to determine whether electronic recording is available. For a list of Virginia county recorder offices that accept electronic recordings, see [eRecording in Virginia | CSC](#).

Pursuant to Va. Code Ann. § 55.1-662, if a law requires, as a condition of recording, a land records document to be original, be signed, or be notarized, an electronic land records document satisfying the Uniform Real Estate Property Electronic Recording Act satisfies the Virginia Law.

## Payments Due upon Recording

Virginia levies a tax on the recordation of deeds, deeds of trust, mortgages, leases, contracts for the sale, and other similar real estate instruments, but the amount of state and county taxes is determined and collected by the Clerk of the Circuit Court in the locality where the instrument is first offered for recordation. Detailed requirements regarding the state recordation tax are stated in the Virginia Recordation Tax Act. See Va. Code Ann. §§ 58.1-800 through 58.1-817.

Due to the complexity involved in calculating the recordation taxes and fees in Virginia, the Virginia courts have provided an online deed calculation system for the general public to calculate the recording taxes and fees. See [Circuit Court Deed Fee Calculation \(state.va.us\)](#).

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### **Terry L. Fox, Partner, Fox & Moghul**

Mr. Fox has over two decades of experience representing developers, real estate brokers, community association boards, title companies, and commercial landlords as well as tenants on a full range of complex real estate matters, including commercial property acquisition, disposition, development and leasing, complex lien and title disputes, land use and zoning, mortgage fraud, residential and commercial purchase and sale contract disputes, construction/contractor (Classes A,B and C) disputes, easement/boundary line and adverse possession issues, partition and allotment actions, plat modifications and HOA related disputes.

As a licensed settlement agent, Mr. Fox has a noted expertise in title disputes, and his Continuing Legal Education Seminars (CLEs) on curing complex title defects with real estate have received national recognition. Mr. Fox's sophistication in this subject matter is reflected in the fact that he has handled more than 3,000 commercial real estate transactions for multi-national entities like Exxon Mobil Corporation. Additionally, Mr. Fox has been practicing trademark law since 1993 and has intellectual property clients from Hawaii to Connecticut, and has successfully prevailed before the United States Patent & Trademark Appeals Board. In addition to his trademark experience, he also has extensive experience in intellectual property transfer and licensing joint ventures.

### **Faisal Moghul, Managing Partner, Fox & Moghul**

Mr. Moghul's accomplishments in the areas of real estate and business litigation are varied and many, including his selection into the elite group of America's Top 100 Civil Defense Litigators (2021), and the prestigious Super Lawyers Rising Stars shortlist for seven (7) years in a row (2016-2022).

Mr. Moghul is a widely published author whose works have received critical acclaim in both state and national media. As a regular contributor to premier legal publications like Lexis Nexis and the American Law Institute, Mr. Moghul frequently publishes practical guidance notes to educate other lawyers on cutting-edge legal issues in real estate and business law.

Mr. Moghul is hyper-focused on providing the best legal representation to his clients. As a seasoned trial attorney, he has obtained successful outcomes in high-stake disputes for numerous clients in state and federal courts throughout Virginia and D.C. In 2017, Mr. Moghul's representation of a client in a real estate fraud case received favorable coverage in the Virginia Lawyer's Weekly Settlements and Verdicts section. In 2019, Mr. Moghul was part of a legal team that spearheaded the dismissal of a \$7 million-dollar business partnership dispute for claims involving breach of fiduciary duty, fraud, conversion, and civil conspiracy. That same year, Mr. Moghul also obtained a high six-figure settlement in a deed fraud case in Loudoun County Circuit Court. In 2020, Mr. Moghul became one of the very few lawyers in Virginia to obtain a rare pre-filing injunction against a serial filer pro se litigant. He has also successfully defended more than a dozen landlords in high-value toxic mold poisoning claims.

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