



**COUNTY OF ERIE**  
**MICHAEL P. KEARNS**  
ERIE COUNTY CLERK

ECLEG-FC 303-20-04 4:00

February 3, 2020

Erie County Legislature  
92 Franklin Street - 4<sup>th</sup> Floor  
Buffalo, New York 14202

Re: Fee for Notification of Sale or Transfer of Ownership of Real Property

Dear Honorable Members:

On December 11, 2019, the Governor Cuomo signed into law (S5372/A440) a new provision under the Real Property Law which requires County Clerks to mail a notification to owners of real property when a deed transferring their residential real property has been recorded in the County Clerk's Office. This law goes into effect on March 11, 2020. The Erie County Clerk's Office records approximately 21,500 residential real property transfers annually.

The law further provides a provision which permits that County Clerks may charge a reasonable fee for the mailing of the notification to the owner of the residential real property. After deliberation, the New York State Association of County Clerks recommended that County Clerks across the State uniformly charge a \$10.00 fee. Pursuant to statute, such cost shall be paid by the individual seeking to record the deed.

Should your Honorable Body require further information, I encourage you to contact me. I look forward to addressing this matter in the upcoming Committee meeting.

Sincerely,

Michael P. Kearns  
Erie County Clerk

## **MEMORANDUM**

**To:** Honorable Members of the Erie County Legislature  
**From:** Michael P. Kearns, Erie County Clerk  
**Re:** Erie County Clerk – Notice of Conveyance Fee  
**Date:** February 3, 2020

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### **SUMMARY**

The Erie County Clerk is responsible for the recording of all instruments which effect title to real property. On December 11, 2019, Governor Cuomo signed into law (S5372/A440 – attached hereto) a new provision of the Real Property Law which requires County Clerks to mail notification to owners of residential real property that a deed has been recorded which transfers their real property. The requirement is effective March 11, 2020. As permitted under the law, the Clerk requests authorization to charge a reasonable fee.

### **FISCAL IMPLICATIONS**

In accordance with the recommendation of the New York State Association of County Clerks, authorization to charge a \$10.00 fee is requested (see attached correspondence). As the Erie County Clerk's Office records approximately 21,500 residential real estate transfers each year, it is estimated that this will generate \$215,000.00 in annual revenue.

### **REASONS FOR RECOMMENDATION**

The new legislation which seeks to curb fraud will create further burdens upon the workforce of the Clerk's Office. There will be costs associated with printing and mailing the notices. The fee is going to be uniformly applied by County Clerks across New York State.

### **BACKGROUND INFORMATION**

Every year the County Clerk's Office records approximately 21,500 deeds affecting title to residential real property. A recent law (S5372/A440) requires that County Clerks provide notice to owners of residential real property regarding the recording of a deed purporting to transfer their real property. This law is effective March 11, 2020.

### **CONSEQUENCES OF NEGATIVE ACTION**

If this request is not honored, the County Clerk's Office will absorb the costs of an unfunded mandate. By requiring the party seeking to record the deed to incur a nominal fee, the cost will be borne by the individual seeking the benefit rather than the tax base of Erie County.

### **STEPS FOLLOWING APPROVAL**

The Erie County Clerk's Office will work with the Office of the Comptroller, the County Attorney and Division of Budget Management to implement this proposal. The Clerk's Office will also work to inform the public and the local real estate bar of the new fee.

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The consensus of the clerks at the conference were to charge per document, not per name on the document. (multiple mailings-still \$10.00)

Betsy

*Elizabeth Larkin*

Cortland County Clerk  
46 Greenbush Street, Suite 105  
Cortland, NY 13045  
607-753-5021

**From:** Wendy J Roberson [<mailto:Wendy.Roberson@niagaracounty.com>]

**Sent:** Wednesday, January 22, 2020 12:11 PM

**To:** Pascale, Judith; Elizabeth Larkin; Idoni, Timothy; Kendall, Bradford; [nyscountyclerks@nysac.us](mailto:nyscountyclerks@nysac.us)

**Subject:** Re: Reasonable fee for notification

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Another question on this subject, and apologies if it has already been answered:

If there are multiple names on the conveyance, are we to provide notification to each one (different address, etc.)? Are we charging \$10 per name?

Best regards,

Wendy J. Roberson  
FIRST DEPUTY COUNTY CLERK  
Office of Niagara County Clerk, Joseph A. Jastrzemski  
PO Box 461  
Lockport, NY 14095-0461  
TEL (716) 439-7022  
FAX (716) 439-7035  
[wendy.roberson@niagaracounty.com](mailto:wendy.roberson@niagaracounty.com)  
Find us on Facebook!  
[www.facebook.com/NiagaraCountyClerk](https://www.facebook.com/NiagaraCountyClerk)

**From:** [nyscountyclerks-request@nysac.us](mailto:nyscountyclerks-request@nysac.us) <[nyscountyclerks-request@nysac.us](mailto:nyscountyclerks-request@nysac.us)> on behalf of Pascale, Judith <[judith.pascale@suffolkcountyny.gov](mailto:judith.pascale@suffolkcountyny.gov)>  
**Sent:** Wednesday, January 22, 2020 11:15 AM  
**To:** Elizabeth Larkin <[elarkin@cortland-co.org](mailto:elarkin@cortland-co.org)>; Idoni, Timothy <[tc2@westchestergov.com](mailto:tc2@westchestergov.com)>; Kendall, Bradford <[bkendall@dutchessny.gov](mailto:bkendall@dutchessny.gov)>; [nyscountyclerks@nysac.us](mailto:nyscountyclerks@nysac.us) <[nyscountyclerks@nysac.us](mailto:nyscountyclerks@nysac.us)>  
**Subject:** RE: Reasonable fee for notification

## [EXTERNAL MESSAGE]

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- Niagara County IT

Thanks!

**From:** Elizabeth Larkin [<mailto:elarkin@cortland-co.org>]  
**Sent:** Wednesday, January 22, 2020 11:08 AM  
**To:** Pascale, Judith; Idoni, Timothy; Kendall, Bradford; [nyscountyclerks@nysac.us](mailto:nyscountyclerks@nysac.us)  
**Subject:** RE: Reasonable fee for notification

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You are correct.

Betsy

*Elizabeth Larkin*  
Cortland County Clerk  
46 Greenbush Street, Suite 105  
Cortland, NY 13045  
607-753-5021

**From:** [nyscountyclerks-request@nysac.us](mailto:nyscountyclerks-request@nysac.us) [<mailto:nyscountyclerks-request@nysac.us>] **On Behalf Of** Pascale, Judith  
**Sent:** Wednesday, January 22, 2020 11:07 AM  
**To:** Idoni, Timothy; Kendall, Bradford; [nyscountyclerks@nysac.us](mailto:nyscountyclerks@nysac.us)  
**Subject:** RE: Reasonable fee for notification

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Hi All,

I'm sorry I missed the last conference. I always look forward to seeing all of you.

From the latest emails, is it safe to say that the uniform fee agreed upon is \$10.00. Am I correct? Judy P

# STATE OF NEW YORK

5372

2019-2020 Regular Sessions

## IN SENATE

April 29, 2019

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to notice of sale or transfer of ownership of residential property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 291 of the real property law, as amended by chapter  
2 447 of the laws of 1984, is amended to read as follows:  
3 § 291. Recording of conveyances. A conveyance of real property, with-  
4 in the state, on being duly acknowledged by the person executing the  
5 same, or proved as required by this chapter, and such acknowledgment or  
6 proof duly certified when required by this chapter, may be recorded in  
7 the office of the clerk of the county where such real property is situ-  
8 ated, and such county clerk or city registrar where applicable shall,  
9 upon the request of any party, on tender of the lawful fees therefor,  
10 record the same in [~~his~~] said office. Every such conveyance not so  
11 recorded is void as against any person who subsequently purchases or  
12 acquires by exchange or contracts to purchase or acquire by exchange,  
13 the same real property or any portion thereof, or acquires by assignment  
14 the rent to accrue therefrom as provided in section two hundred ninety-  
15 four-a of [~~the real property law~~] this article, in good faith and for a  
16 valuable consideration, from the same vendor or assignor, his distribu-  
17 tees or devisees, and whose conveyance, contract or assignment is first  
18 duly recorded, and is void as against the lien upon the same real prop-  
19 erty or any portion thereof arising from payments made upon the  
20 execution of or pursuant to the terms of a contract with the same  
21 vendor, his distributees or devisees, if such contract is made in good  
22 faith and is first duly recorded. Notwithstanding the foregoing, any  
23 increase in the principal balance of a mortgage lien by virtue of the  
24 addition thereto of unpaid interest in accordance with the terms of the  
25 mortgage shall retain the priority of the original mortgage lien as so

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

LBD05315-03-9

1 increased provided that any such mortgage instrument sets forth its  
2 terms of repayment. The clerk of the county or city registrar where  
3 such conveyance of residential real property is recorded and maintained  
4 shall mail a written notice of such conveyance to the owner of record.  
5 The notice shall have the heading printed in 20 point bold type and read  
6 as follows:

7 "NOTICE OF SALE OR TRANSFER OF OWNERSHIP OF YOUR RESIDENTIAL PROPERTY.

8 To: \_\_\_\_\_

9 Name of owner of record

10 Our records show that you are listed as the current owner of record for  
11 residential property:

12 Block # \_\_\_\_\_ Lot # \_\_\_\_\_

13 Located At: \_\_\_\_\_

14 street address

15 in the county of \_\_\_\_\_ New York

16 On \_\_\_\_\_, documents were filed at this

17 date

18 office to change ownership and transfer title of your property.

19 To: \_\_\_\_\_

20 name of new owner

21 If you have any questions regarding the validity of the documents, and  
22 wish to dispute the recording of the transfer, you should obtain legal  
23 counsel. If you believe you are a victim of a crime related to this  
24 recording, contact your local law enforcement agency or, if in the City  
25 of New York, the office of the sheriff."

26 The party seeking to record such conveyance shall bear the cost of such  
27 written notice. The clerk of the county or city registrar is entitled  
28 to charge a reasonable fee to cover the cost of mailing the envelope to  
29 the owner of record. Failure to mail such notice or the failure of any  
30 party to receive the same, shall not affect the validity of the convey-  
31 ance of the property.

32 § 2. This act shall take effect on the ninetieth day after it shall  
33 have become a law.

**A RESOLUTION SUBMITTED BY:**

**Erie County Clerk Michael P. Kearns**

**RE: Land Records – Notice of Conveyance Fee**

WHEREAS, the Erie County Clerk's Office continues to meet statutorily imposed mandates and service demands; and

WHEREAS, the Erie County Clerk is responsible for the recording of all conveyances of real property in the County of Erie; and

WHEREAS, a recent law (S5372/A440) requires County Clerks to mail a notice of transfer of ownership to owners of residential real property upon the recording of a deed; and

WHEREAS, the Erie County Clerk's Office annually records approximately 21,500 conveyances of residential real property; and

WHEREAS, the statute provides that County Clerks may charge a reasonable fee to mail notice to the owner of residential real property and the New York State Association of County Clerks has recommended that clerks statewide uniformly establish a fee of \$10.00.

NOW, THEREFORE, BE IT:

RESOLVED, that the Erie County Clerk shall be authorized to charge a \$10.00 fee to be paid by the individual requesting to record a deed; and be it further

RESOLVED, that certified copies of this resolution will be forwarded to the Division of Budget and Management, the Office of the Comptroller, the County Attorney and the Erie County Clerk's Office.

**FISCAL IMPACT:** *Positive for Erie County will generate approximately \$215,000 in annual revenue.*