

White paper

## How fee changes can directly impact lenders

Four use case examples demonstrating potential consequences

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Mortgage fee cures – the process of correcting a discrepancy between the fees initially disclosed to a borrower on a loan estimate and the actual fees charged at closing – can cost lenders an average of \$1,225 per loan.

Federal, state and local fees are subject to change whenever new laws are passed. However, even when a new law is passed, as discussed in this white paper, its enactment can be delayed or arbitrary. This requires constant lender vigilance and labor resources expended if the solutions in place can't support or automate fee management processes.

ICE Mortgage Technology offers a suite of robust fee solutions to help lenders streamline the fee management process, as well as minimize the risks and costs associated with fee cures.

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### The high cost of noncompliance

In 2023, ICE conducted an analysis of nearly 90,000 loans from eight lenders over a six-month period to determine the frequency and cost of mortgage fee cures. [The hidden cost of fee cures](#) white paper disclosed that fee cures occur on one in every three loans and contributed considerably to loan production costs – an average of \$1,225 per loan, mainly due to the labor associated with fee review and document processing.

It was further determined that lenders in the study could recover more than \$1.2 million for every 1,000 loans produced by mitigating these fee cures.

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### State and local practices have shifted, causing fee cure complexity

TRID, also known as the Know Before You Owe mortgage disclosure rule, requires lenders to provide borrowers with certain information about their mortgage loans.

When TRID tolerance standards were enacted in 2015 by the Consumer Financial Protection Bureau (CFPB), the majority of government recording fee and transfer tax changes involved uniform laws of statewide applicability, passed by legislative bodies, that imposed standard fees and tax rates. The idea was that these laws would not change or vary over time based on property type or purchase price. That paradigm has shifted.

If the CFPB were to scale back TRID enforcement at the federal level in the coming years, the costs associated with inaccurately quoted fees could persist via the imposition of state and local penalties and rejection costs driven by county recording offices. These are independent of federal enforcement trends.

## Today, a myriad of local factors impact recording fee and transfer tax calculations, including:

- Intra-state fees and taxes at the county, city, town and village level
- Sale price, such as tax thresholds and tiered tax rates for higher-value properties
- Property type, such as residential vs. commercial property or primary vs. secondary homes
- Type of buyer (first-time homebuyers, owner-occupiers, etc.)
- Tax rules, such as annual adjustments tied to inflation indexes
- Ballot measures and other non-legislative avenues to create transfer taxes
- Implementation periods for tax and fee changes, which can range from a matter of weeks or months to as short as a single day
- The increased role of litigation and the judiciary in determining the fate of transfer taxes

These variables have led to a wide range of fee requirements, all of which must be understood by lenders doing business in certain cities or states.

## Four case examples: the impact of fee changes to lender operations

### Los Angeles' 'Mansion Tax'

The City of Los Angeles (L.A.) has long imposed a local transfer tax of \$4.50 per \$1,000 (or 0.45%) on the sale of real estate property in the city. In 2023, L.A. voters approved a ballot measure to charge an additional 4% "Mansion Tax" on property sales over \$5 million.

That original \$5 million threshold was made subject to annual inflation adjustments. Currently set at \$5.15 million, L.A. recently announced that it will be increasing to \$5.3 million on July 1, 2025.

To give a sense of the potential impact, if a \$5.2 million purchase in L.A. closes on June 30, 2025, it would be subject to the combined tax rate of 4.45% and the seller would owe \$231,400 in city transfer tax. If the same \$5.2 million L.A. purchase closes one day later (on July 1, 2025) it would fall below the new \$5.3 million threshold and be exempted from the Mansion Tax. As such, it would only be subject to the base rate of 0.45% and the seller would owe \$23,140 in city transfer tax – more than a \$200,000 difference.

Since L.A. announced the change months in advance, lenders are on notice and should be quoting the correct tax based on the estimated closing date. Failure to do so would not be a valid changed circumstance.

### New Jersey restructures Mansion Tax on short notice

New Jersey provides an illustrative recent example of both: (i) the increasing complexity of transfer tax calculations; as well as (ii) the short implementation windows lenders face.

Late on June 30, 2025, the Governor of New Jersey signed Assembly Bill 5804 into law to go into effect on July 10, 2025. The law shifted New Jersey's Mansion Tax from a uniform 1% on all property sales over \$1 million to a complex system of five tax tiers and rates, as follows:

1. 1% of total consideration if in excess of \$1,000,000 but not in excess of \$2,000,000;
2. 2% of total consideration if in excess of \$2,000,000 but not in excess of \$2,500,000;
3. 2.5% of total consideration if in excess of \$2,500,000 but not in excess of \$3,000,000;
4. 3% of total consideration if in excess of \$3,000,000 but not in excess of \$3,500,000; and
5. 3.5% of total consideration if in excess of \$3,500,000.

The bill also shifted responsibility for payment of the Mansion Tax from 100% buyer paid to 100% seller paid.

To give a sense of the potential impact: for a \$3.1 million New Jersey purchase, which closed and recorded on July 9, 2025, the seller would owe \$0 in Mansion Tax and the buyer would owe \$31,000. If the same purchase closed and recorded one day later, on July 10, 2025, the seller would owe \$93,000 in Mansion Tax and the buyer would owe \$0. Remarkably, the industry had only six business days following passage of the law to adjust to this major overhaul, evaluate impacted loans for potential redisclosures and implement fee changes.

ICE Fee Solutions includes patented date-forward calculator functionality that **helps lenders account for future fee changes** and plan accordingly.

### Ohio leaves implementation to counties

In October 2024, the Ohio state legislature passed a law allowing Ohio county recorders to charge up to an additional \$5 per document recording fee to fund a records digitization initiative. However, it was left up to each of Ohio's 88 counties to determine whether it would charge the additional fee, how much to charge and when they would begin charging it.

When ICE reached out to each county, preliminary research found that approximately one-third of counties intended to begin charging the additional fee immediately, or very shortly after it went into effect. Another third intended to do so but at a later, undetermined date. The final third indicated they had no plans to impose the increase at the present time.

ICE will continue to be in communication with those counties as they make decisions on whether and when to implement the \$5 fee. Each time a county confirms its decision, those county-based fee changes are updated in near real-time in ICE Fee Solutions – something that would be otherwise manually intensive and expensive for lenders doing business in one or more Ohio counties to undertake.

### Santa Fe stays unresolved

Voters in Santa Fe approved a ballot measure in November 2023 to impose a 3% local transfer tax on the sale of real estate property. The fee was to go into effect six months later. However, on May 22, 2024 – just days before the tax would go into effect – a district court ruled the measure unlawful and halted implementation. This decision is still working its way through appellate courts.

ICE is continuing to monitor the case, as the decision could have major ramifications for lenders offering high-end loans in Santa Fe. For example, the day before the fee is enacted, the correct transfer tax quote for a lender financing a \$4.5 million residential purchase in Santa Fe would be \$0. However, on day one of the fee change, the same \$4.5 million purchase would be subject to a transfer tax of \$105,000. If lenders failed to quote or re-disclose the tax owed based on this change, they could incur a six-figure fee cure for a single loan.

Assuming the tax is reinstated, the work will not end there since the \$1 million threshold for the 3% Santa Fe transfer tax is not static. Rather, beginning in May 2026, the threshold will be subject to annual inflation adjustments based on the Western Region Consumer Price Index (CPI).

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## The evolving enforcement landscape

The CFPB is often viewed as the sole government entity responsible for enforcing fee accuracy. States and local regions, however, have long played a pivotal role in this space, both by setting fee calculation rules and, in many cases, establishing penalties for lenders that fail to adhere to those rules.

### How federal and state laws work hand-in-hand

Washington State, for example, has a statute (the WA State Consumer Loan Act) mandating that failure to comply with federal TRID tolerance standards constitutes a violation of Washington State law.<sup>1</sup> The Washington Department of Financial Institutions, Division of Consumer Services, is authorized to enforce these standards and impose state penalties that are separate from, and in addition to, federal requirements to pay fee cures and maintain compliance.

In one recent enforcement action, the WA Division of Consumer Services imposed a \$10,000 penalty on a mortgage broker, in part, for failure to “adhere to tolerance limits” including disclosing “recording fees that at settlement were charged with an increase totaling more than the 10% tolerance allowed by law.”

This penalty was in addition to the requirement to cure the underlying fee inaccuracies and the consent order, which included the potential of an additional \$30,000 fine and revocation of the broker’s license in the event of future violations.

Moreover, local county recorders continue to constitute the frontline in driving the expenses associated with inaccurate real estate fees. If inaccurate fees are missed at the closing table, it is the recording offices that conduct the final review and reject documents. Such rejections can cause significant delays and expenses as a result of having to correct and resubmit documents.

Other states, such as Tennessee, Maryland and New York, codified strong regulatory enforcement provisions governing the accuracy of transfer taxes.

- Tennessee, for instance, mandates a 200% penalty “if the holder of the indebtedness (i.e., the lender) fails to pay or underpays the indebtedness (i.e. mortgage) tax.”<sup>2</sup>
- In Maryland, “If an instrument of writing that is recorded under Title 12 of this article is used to secure an additional debt, a person who fails to pay the additional recordation tax required in §12-105(f) of this article is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 6 months.”<sup>3</sup>
- In New York, unintentional failure to transmit accurate transfer tax can result in penalties that include fines and the threat of civil action.<sup>4</sup> Willful violation can constitute a criminal misdemeanor.<sup>5</sup>

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## Industry-leading fee solutions

Accelerating real estate fee complexity and a shifting regulatory landscape constitute both a major challenge and expense for lenders. As these case examples and our own findings illustrate, being out of compliance can be extremely costly.

ICE Fee Solutions can help lenders support compliance challenges at the federal, state and local level, as well as reduce the likelihood of paying fee cures and penalties. The solution is also integrated into the Encompass® loan origination system (LOS) to further streamline the fee management and tax data procurement processes during loan origination; as well as Mavent, ICE’s suite of compliance services, to improve loan quality by immediately notifying lenders when they are out of compliance.

### ICE Fee Solutions includes:

- **Loan Estimate and Closing Disclosure fees** – calculates and delivers accurate recording fees, transfer taxes, lender title premiums, owner title premiums, endorsements, settlement fees and inspection fees.
- **Date-Forward Calculator** – calculates future fee and transfer tax changes based on a loan’s projected close date, minimizing the need to issue change disclosures.
- **Settlement Agent Gateway** – allows lenders to create their own national network of service providers for fast, easy access to fee information.
- **Fee Monitoring** – monitors jurisdictional level fee changes and alerts of possible impacts to quoted loans, automatically identifies impacted pipeline loans for 60–90 days, recalculates fees and provides near real-time alerts when a fee change is detected. *Available to Encompass clients only.*
- **Fee Cures Dashboard** – provides early detection of potential fee changes and identifies the source for fee changes so the root cause can be addressed, reducing time spent on corrections from monitoring. *Available to Encompass clients only.*



**For more information:** [mortgagetechnice.com/products/fee-solutions](https://mortgagetechnice.com/products/fee-solutions)

<sup>1</sup> Revised Code of Washington § 31.04.027

<sup>2</sup> TN Stat. § 67-4-409(b)(13)–(14)

<sup>3</sup> MD Property Code § 14-1011

<sup>4</sup> NY Tax Law § 1404(a); § 1416

<sup>5</sup> NY Tax Law § 1818

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