1. Welcome – Brian Taylor, Chair
   We convened this meeting on-line to discuss the many issues facing the real estate industry, and real estate lawyers specifically, in these uncertain times when social distancing is the imperative and when registers’ and clerks’ offices are yet clients still desperately need quality legal representation, to get refinances and sales closed, possibly even to obtain access to equity lines if their families are having current financial troubles. The goal is to keep the legal infrastructure capable of facilitating lenders lending, buyers able to purchase, and sellers able to complete sales, without legal impediment, if the financial environment allows, their own credit situations and appropriate, so that these clients’ needs are to be addressed. Just as in other states, the goal is for transactions to continue because title insurance underwriters, attorneys and other parties seek ways to continue in commerce in the face of the constantly changing situation.

2. Social Distancing/Client Contact:
   Lots of useful practical information, FAQ’s and forms are available at Bar’s Practice Management site, and discussed on the listserv for changing law office access and procedures to protect staff as well as clients.

3. Emergency Declaration/Essential Services:
   Gov. Cooper’s Executive Order #120 is attached.
   Working with other industry participants, we are negotiating the myriad of issues involved in continuing to provide service to clients, many of whom desperately need help, in this trying time. Those other industry participants include: the NC Association of Realtors, the Carolinas Credit Union League, the Mortgage Bankers Association of the Carolinas, RELANC, the North Carolina Land Title Association, the North Carolina Bankers Association, the North Carolina Association of Registers of Deeds, the North Carolina Home Builders Association, the North Carolina Secretary of State (Land Records Division and Notary Division), the North Carolina State Bar, among many
others. The list continues to increase as we consider others who have an interest in how we can address the continuing list of issues.

Most if not all of the industry participants have written letters to Gov. Cooper to include real estate services, professional legal services and/or financial services in any “essential business services” in the event of a stay-at-home or especially any shelter in place order. NOTE: As I am drafting this report, I note that the State Bar President C. Colon Willoughby, Jr., has written a similar request to Gov. Roy Cooper requesting that legal services be included in any list of “essential services” in the event of a shelter in place order.

4. National Industry Perspective Discussion

-GAP Coverage for Title Insurance:

Nationally, lenders, realtors, and clients are pushing for real estate to closings to be able to continue legally, even though adversely affected by financial markets, and have put pressure on title insurance underwriters to facilitate continued commerce. In most states, and on commercial transactions in North Carolina, “gap” coverage is a routine process for closing transactions – even very large gaps. What is unprecedented here is that, if a register actually completely closes for recording transactions (electronically or on paper), it may be unclear when they will reopen.

Best Practices will need to be developed on how to address this, such as submitting to the e-recording queue even if the register is not currently recording, safe and secure retention of original documents and funds to record as soon as the register resumes recording, among other things. So most, possibly all, title insurers have developed protocols and forms for providing “gap” protection if a register of deeds office closes to recording, depending on what records are available to search and the nature of the transaction and parties,

-Chapter 45A Good Funds Settlement Act:

Unique to North Carolina, this civil remedy statute is being carefully considered. Based upon full disclosure to clients and obtaining their informed written consent to waive the provisions of GS 45A-7 and penalties against the “settlement agent” (i.e. closing attorney), the statute contains no additional criminal or other penalties. As with most
Ethics Opinions of the State Bar, it is hoped that the State Bar would have no basis for disciplinary action against the attorney since there are no criminal or disciplinary penalties provided under the statute.

5. **Emergency Remote Notarization (paper signing only):**

Discussions are ongoing with the NC Secretary of State Notary Division regarding a possible “remote” solution for paper document execution and notarization by North Carolina notaries, using on-line internet services such as Zoom, WebEx, Go to Meeting or others, obtaining clearly visible identification, and visual real time communication between the signer and notary, whether in the same building or elsewhere in North Carolina.

6. **Joint Form 790 – COVID-19 Addendum:**

This form has been developed by the NCAR/NCBA Joint Forms Committee, the latest draft of which is attached.

7. **Clerks and Courts:**

Clerks’ offices are also reducing availability to the public and therefore to title examiners under the orders of the Chief Justice of the Supreme Court and implementing orders by the AOC. Remote access to the VCAP computer indexing system can be obtained, upon purchasing an outside software that provides the access from private computer to VCAP, and contracting with the AOC for VCAP access. More information is available on-line at the NC Courts website: [https://www.nccourts.gov/services/remote-public-access-program](https://www.nccourts.gov/services/remote-public-access-program) Information on that website:

**ONLINE FEE SCHEDULE** Following is the fee schedule for online access to both criminal and civil information in all 100 North Carolina counties:

- $495.00 - One-time connection fee (non-refundable); includes two user IDs and two admin IDs.
- $70.00 - One-time fee for each additional user ID needed.
- $0.21 - The access fee per transaction. Access fees are billed on a monthly basis based on usage. Each new task, indicated by the pressing of the “Enter” key, the “PA1,” “PA2,” or “PA3” keys, the function keys “F1” through “F12,” or the “Clear” key, is considered a transaction. Most times when a transaction occurs, a new screen appears, but that is not always the case.

Payment for the initial connection fee and any additional user IDs must be in the form of a cashier's check, made out to “N.C. Administrative Office of the Courts.”
8. **Emergency Legislation:**

In the event the NC Legislature may decide to re-convene for an emergency session, several legislative proposals are being discussed to address the above emergency situation. Lobbyists for the various associations are in communication with legislators to communicate these concerns and discuss possibilities.

**In conclusion:** Please contact any of our Council or Officers via email or otherwise, or post to the Real Property Section listserv, to discuss concerns and share ideas for how we can all weather this storm and continue to serve our clients professionally and continuously, as always.

Thank you.