In recent years, emerging technologies like blockchain have become a topic of significant discussion by lawyers, not only as a regulatory concern, but also as an opportunity to move the practice of law in new directions. We have all read about the rise of Bitcoin and we have heard about how JP Morgan, IBM and even Facebook are looking at blockchain. Given blockchain technology’s prevalence and complexity, the North Carolina Bar Association’s Future of Law Committee has continued to study blockchain and its use cases in the law. As described in the Future of Law Committee’s inaugural report, “[a]t its core, blockchain technology is software that enables transactions on a publicly accessible, immutable, distributed ledger.” This technology has the potential “to severely curtail the need for intermediaries such as financial institutions, title registries, and a host of other ‘trusted agents,’ at least in their current form.”

The good news is that real estate law practitioners already have a leg up when it comes to blockchain technology and most of you probably haven’t even realized it. As real estate practitioners, our lives revolve around a single trusted ledger, the register of deeds. All of our homes and businesses depend on the integrity of the records in the register of deeds. The register of deeds is elected and bonded to promote trust. We totally trust the register of deeds system and we have taken extreme measures to insure it remains trustworthy.

In his paper: Bitcoin: A Peer-to-Peer Electronic Cash System, “Satoshi Nakamoto,” the name used by the person(s) who developed bitcoin, said “What is needed is an electronic payment system based on cryptographic proof instead of trust, allowing any two willing parties to transact directly with each other without the need for a trusted third party.” What if we applied this to the register of deeds? Can we replace the trust we have in the register of deeds position with “a system based on cryptographic proof”? Suppose the County Commissioners decided, as a cost saving measure, to eliminate the register of deeds position and move to blockchain? The first step would be to convert the existing system into an immutable ledger. Each record or deed is already time-stamped so the records would just need to be linked together in a manner that would prevent any records from being changed or tampered with. If any record was changed, it would be immediately evident.

Now we have a foolproof ledger. But as a homeowner you might still be thinking “This is my house I am not sure I trust this!” What if they lost the ledger? What if someone tampers with it? To be safe you, as a homeowner, might want to make a copy of the existing database ledger and keep it in a safe place. You would know that they had an exact copy because you could prove it by the fact that every record is linked to the next and if one thing changes everything else would change. In fact all the homeowners in the county may think alike and want a copy of the database. Everyone could be kept in sync by connecting to the internet and automatically checking with each other to make sure that all the databases are identical.

Now someone decides to sell their house. How do you add the transaction to the ledger? Satoshi solved this problem. Anyone can simply add a transaction to their copy of the ledger and send it out to everybody else. A race begins as everybody tries to add the new transaction to the chain of records by solving a computational intense puzzle. If someone else enters a conflicting transaction it will be taken up as part of the race but there will be only one winner. The first one to solve the puzzle gets a reward and the transaction gets added to the blockchain and we now have a new blockchain that is given to everybody. No one is in control, no one can tamper with the records, it can’t be lost or broken.

Welcome to the world of blockchain, an idea that can shake the foundations of the way we do business. At the annual meeting we will be exploring how blockchain impacts real estate transactions, real estate financing, real estate listings and the register of deeds.