Spring is here! The flowers are blooming, the trees are budding, the temperatures are rising, and the fraudsters are diligently working on new scams. Fraud via the internet is here to stay, and real estate closings are a favorite, and quite profitable, target. Time pressure, last minute changes, swift movement of funds in and out of the account from multiple sources to multiple accounts – it’s a fraudster’s dream come true. Protecting against fraud has become a critical element of our practice, and it is vital that dirt lawyers stay informed about the ever-evolving schemes, and update and refine their procedures to prevent loss. But one of the critical elements that lawyers sometimes forget in the stress and pressure of our practice is keeping our staff educated about the latest ploys.

We have all heard about fraudulent wiring instructions, and we know the measures to protect ourselves and our clients, but the fraudsters are getting bolder and more sophisticated. Recently, I attended the annual meetings of North Carolina Land Title Association and RELANC, two key partners of our section. Both meetings included detailed presentations and stern warnings about fraud – from fraudulent transfer deeds, complete with fake notarization, to last minute changes to wiring instructions in

Lordy, Lordy, the Section’s Forty!

Annual Meeting to Celebrate the Fortieth Anniversary of the Real Property Section

“At twenty years of age, the will reigns; at thirty, the wit; and at forty, the judgment.” — Benjamin Franklin

By Garrett Walker

A very wise, long-time professor of property law at the UNC School of Law taught his students that to understand where the law is and where it is going one needs first to understand its origins and the path it took to the present. Such is the case with the Real Property Section of the North Carolina Bar Association. This year at the Annual Meeting in May the section will recognize the 40th year of its existence. Anniversaries, particularly 40th anniversaries, are a time for reflection — a time to examine the triumphs and challenges of the past, to take stock of the present and to plan for the future. As a part of the celebration of our 40th anniversary, the CLE program will include a panel of four former chairs of the section who will discuss some of the topics and issues of interest to the section and its membership in the first 40 years of its existence and how those issues and the section’s responses to them help explain where we are now and where we are headed.

The materials accompanying the panel discussion will include a brief history discussing why the section was created, who was involved in its creation and what they sought to accomplish. The history will include a year-by-year catalog of the major activities and accomplishments of the section. In order to recognize and celebrate the service and commitment of the many section members who expended their time and talents in promoting the section and its activities, the materials include a year-by-year listing of the officers of the section and the members of the council. To add depth and additional insight about the formation of the section, an article entitled “The Real Property Section: Remembering the Beginnings” written by D. G. Martin, the first chair of the section, on the occasion of the section’s 25th anniversary, is included. Personal reflections from Woody Harisson Jr., the sixth chair of the section, and from Margaret Shea Burnham, the 21st chair of the section and the first women to serve as chair of the section, are also included. So that section members may explore for themselves the major topics

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The Chair's Comments, continued from the front page

response telephone calls from fraudsters, impersonating bank officers. The most frightening scenario is that hackers can gain access to your network if anyone in the office clicks on an attachment or link in an email that contains an executable file. That enables a fraudster to lurk in your network, gaining access to your passwords. There they can wait for information about an upcoming closing and send emails from your address changing wiring instructions. This means that every single person in your office should be informed about fraud and how to detect and prevent it. It is vital that attorneys stay abreast of new threats and continuously educate their non-dirt partners and staff about the risks.

The Legislature is back in session and in full swing, and we are monitoring the Notice of Settlement Act and the technical corrections bill. The RPS legislative committee is active year-round, coordinating with other groups, to stay up to date on what is coming next. Despite those substantial and sustained efforts, there are always surprises. There are two this year — so far—that could affect real property practice.

The first of these is the Uniform Real Property Transfer on Death Act. The bill authorizes a form of deed which will convey title to a grantee upon the death of the grantor. The transfer on death deed requires the same formalities as other deeds but does not convey any interest in the real property until the transferor’s death. During the lifetime of the grantor, the grantor is free to revoke the deed, and has full authority to grant deeds of trust, easements and other legal and equitable rights in the property without joinder of the transfer on death grantee. The grantee takes the property subject to claims against the grantor’s estate. The transfer on death deed is intended to be a simple and cost-effective alternative to a will. The bill includes an optional form for a transfer on death deed. The text of this bill is on the NC Legislature website: https://www.ncleg.gov/BillLookUp/2019/sb%20312

The other bill seeks to turn on its head the long-established common law of adverse possession. The bill does not alter the requirements that the possession be open, notorious, hostile, exclusive and continuous. Instead, it increases the required time of possession from 20 years to 30 years. In addition, the bill requires an adverse possessor without “color of title” to pay the record owner the fair market value of the property to reimburse the record owner for property taxes incurred for the past 30 years. The bill also excludes from adverse possession the ability to acquire title to property that is in within one foot of the recorded boundary line of the property. The proposal is a drastic change from common law: It converts the common law adverse possession into something that resembles private condemnation – but without providing any procedures or standards – by amendment to the statutes of limitations. We believe that the impetus for this bill comes from states that, unlike North Carolina, require a very short period for adverse possession and an abundance of undeveloped and remote property, which has resulted in loss of title to nonresident land owners. Here is a link to the bill: https://www.ncleg.gov/BillLookUp/2019/HB%2020309

Plans are in full swing for the Annual Meeting in Kiawah on May 16 through 18. The CLE program is entitled “Then and Now: The Real Property Section Commemorate 40 Years.” The weekend kicks off with an early arrivals reception from 5 to 6 p.m. on May 16. The CLE topics include a historical retrospective of the highlights of the history of the Real Property Section, complete with a bingo game, case law update, tax-free exchanges and recent law changes, and declarants’ rights. We also have a presentation on blockchain technology and its impact on real estate practice – after which I will truly need the presentation on attorney wellness. We have invited the past chairs of the section and will honor them during our annual business meeting and at the Friday evening cocktail reception. Each past chair has contributed to the success of our section and the spirit of collegiality, involvement and mutual support that prevails in our section. Kiawah is a great place for a weekend getaway. And our accommodations (one- two- and three-bedroom villas) are perfect for solos, couples, families, or for sharing with friends. Come join us in celebrating the section’s 40th year.
As an added benefit, the section has arranged for demonstrations of e-technology for closings. The demonstrations will be provided by Qualia, Simplifile and DocMagic. Although we may not like it, full e-closings are coming – and sooner than we think. These demonstrations will be informal and will include time for you to ask questions. The demos are planned for early Friday morning, before the CLE. This is a terrific opportunity to see the technology and ask questions in a no-pressure setting, and I hope that our members will take full advantage of the opportunity.

Finally, I urge you to consider getting involved in section activities. Our section elects 7 new council members each year, and there are many committees who carry out the work of the section. The committees change over the years, as the needs of our section develop and change. Our current committees are:

- Commercial
- Communications
- Community Associations
- Consumer Protection
- CLE
- Ethics
- Forms
- Legislative
- Membership and Diversity
- Pro Bono
- Residential

If you are interested in serving on the Council or participating on a committee, please email me at ebradshaw@phd-law.com or click the Committee Sign-up link on the RPS home page at: https://www.ncbar.org/members/sections/real-property/.

Enjoy the spring! Hope to see you in Kiawah!

Ellie

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**NORTH CAROLINA BAR ASSOCIATION**

**Real Property Section Annual Meeting and CLE**

**Friday-Saturday, May 17-18, 2019**

**Kiawah Island Golf Resort, SC, East Beach Conference Center**

**Then and Now: The Real Property Section Commemorates 40 years**

**LIVE**

**Friday-Saturday, May 17-18, 2019**

**Kiawah Island, SC**

**Program includes the 2019 Real Property Section Annual Meeting**