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## So. Essex Registry able to move money out of Bank of America

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A request by a county official to withdraw all of his agency's deposits from Bank of America may be granted.

On Monday, John O'Brien, head of the Southern Essex County Registry of Deeds, said that Bank of America, working with the Mortgage Electronic Registration System, or MERS, had bypassed the payment of millions of dollars in mortgage transfer fees.

He said the practice has cost taxpayers \$25 million a year in his district alone, which includes much of the Merrimack Valley and the North Shore. He implored state Treasurer Stephen Grossman to withdraw all of the state's deposits from Bank of America, one of the major shareholders of MERS.

Further, he cited a '60 Minutes' TV newsmagazine show that aired Sunday night investigating how difficult it is to establish the ownership of mortgages in part because they were sold and resold on the secondary market.

Those sales, claims O'Brien, were never codified in the Registry of Deeds database, so the banks, and MERS, avoided paying the state-mandated \$75 transfer fee every time the mortgage was re-sold.

Jon Carlisle, director of communications for state Treasurer Stephen Grossman, said yesterday that if O'Brien wants to transfer his deposits out of Bank of America, he is free to do it.

"Mr. O'Brien contacted this office via email," Carlisle said. "We let them know of a section on our Web site that contains a form that allows them to change banks. It's fairly routine. Once we receive the paperwork, we would be happy to comply with that request."

Kevin Harvey, a spokesman for O'Brien, said in Tuesday's editions of The Eagle-Tribune that a "forensic auditor" was combing through mortgage records in an effort to find evidence that MERS, along with Bank of America, had hidden transactions to avoid paying the fees.

Both Bank of America and MERS issued statements yesterday in response to the Registry's comments.

"Mr. O'Brien's premise is unfounded," said Janis Smith, MERS vice president of corporate communications. "As we have said before, all MERS mortgages are recorded in the public land records, and MERS members pay recording fees when the mortgage is recorded.

"The MERS<sup>TM</sup> System provides greater public transparency and complements the county land records by providing information about mortgage loan servicing, and, with the addition of MERS<sup>TM</sup> InvestorID, the name of the investor. The use of MERS is in compliance with the purpose and intent of the state recording acts."

T.J. Crawford, a spokesman for Bank of America, said, "we look forward to discussing the issue with Mr. O'Brien

and explaining to him Bank of America's process for recording mortgages and the use of MERS."

Harvey said yesterday that O'Brien is "in the process of looking for a local, non-MERS shareholder bank to actually deposit the funds. We are in the process of doing our due diligence."

He thanked the treasurer for supporting O'Brien's efforts to move the money — \$25 million to \$50 million annually — out of Bank of America.

"Treasurer Grossman should be commended for his efforts," Harvey said.

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