



February 17, 2026

FINCEN RESIDENTIAL REAL ESTATE REPORTING RULE

The Residential Real Estate Reporting requirements through FinCEN take effect on March 1, 2026. This will be a new report that real estate professionals will need to file for certain transfers of residential real estate that FinCEN feels are high risk for illicit finance. This Bull is to give you a broad, high-level look at the new rule.

Purpose of the Rule

- ☑ FinCEN’s Residential Real Estate Rule requires reporting of certain “non-financed” transfers of “residential real estate” to legal entities or trusts to combat money laundering and increase transparency.
 - NOTE: CHECK OUT THE DEFINITION OF “NON-FINANCED” BECAUSE IT INCLUDES A LOT MORE THAN JUST CASH TRANSACTIONS.
 - NOTE: CHECK OUT THE DEFINITION OF RESIDENTIAL BECAUSE IT INCLUDES A LOT MORE THAN JUST A HOUSE.

What is a transfer of residential real property?

- ☑ Any transfer of property:
 - Through a deed, or
 - For cooperative housing corporation interests, through stock, shares, membership, certificates, or other ownership contract.
- ☑ Transfers include conveyances of residential real property for any amount, as well as transfers for which no consideration is exchanged, such as a gift.

When Is a Transfer Reportable?

- ☑ **Residential Real Property:** Includes single-family homes, townhomes, condos, co-ops, mixed-use properties with residential units, and vacant land intended for 1–4 family construction.

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- It is real property located in the United States that includes a structure or structures designed principally for occupancy by one to four families; OR
 - It is land in the United States on which the transferee intends to build a structure or structures designed principally for occupancy by one to four families; OR
 - It is a unit designed principally for occupancy by one to four families within a structure on land located in the United States; AND/OR
 - It is a share in a cooperative housing corporation for which the underlying property is located on land within the United States.
 - NOTE: THIS MEANS DEVELOPERS BUILDING RESIDENTIAL SUBDIVISIONS MAY HAVE REPORTABLE TRANSACTIONS.
 - NOTE: THIS MEANS COMMERCIAL DEVELOPERS BUILDING MIXED USE COMMERCIAL AND RESIDENTIAL STRUCTURES MAY HAVE REPORTABLE TRANSACTIONS.
- ☑ **Non-Financed Transfer:** A non-financed transfer is one that does NOT involve an extension of credit to all transferees that is both (1) secured by the transferred property AND (2) extended by a financial institution subject to AML (Anti-Money Laundering) requirements and Suspicious Activity Reporting (SAR) obligations.
- This means financing by a lender without an obligation to maintain AML/CFT (Anti-Money Laundering and Countering Financing of Terrorism) programs and a requirement to file SARS (Suspicious Activity Reporting) are defined as ‘non-financed’ transactions.
 - If you don’t know if your lender qualifies, request written confirmation from them, and keep it in the file.
- ☑ **Transferee Entity is a Legal Entity or Trust:** This is anyone who is not an individual or an exempt trust or regulated entity. May include LLCs, partnerships, corporations, and trusts, some estates, unincorporated, or other entity that is not an exempted entity or trust.
- Transferee trust can include any legal arrangement created when a grantor places assets under the control of a trust for the benefit of one or more persons or a specific purpose.
 - If your transferee is not an individual person, confirm if the entity is listed in the exceptions/exemptions to the reporting rule.

Common Examples of Transfers That May Not Be Considered Reportable

This is not a comprehensive list of transfers that are not reportable. You should evaluate the specific facts of a transaction to see if an exclusion or exemption applies. However, these are common examples of when a transfer may not be considered a reportable transfer.

- ☑ Transfers due to death, divorce, or easements.
- ☑ Certain no-consideration transfers to a trust by the individual/settlor.
- ☑ Transfers made to a bankruptcy estate or under court supervision.
- ☑ Transfers to a qualified intermediary for 1031 exchanges.
- ☑ Transfers where no reporting person exists under the reporting cascade.

Who Must File? — The Reporting Cascade

- ☑ A reporting person is one of a list of people or businesses who perform specific functions that are either on the reporting cascade or have agreed to report with a written designation agreement. These are similar to the 1099 reporting cascade. If there is no designation agreement, the person who is responsible for reporting goes in this order (so if no person is acting as the first, the responsibility moves to the second):
 - Settlement/closing agent listed on the settlement statement.
 - Preparer of the settlement statement.
 - Person who files the deed for recordation.
 - Title insurer underwriting the owner's policy.
 - Person disbursing the greatest amount of funds.
 - Person providing the title evaluation.
 - Person preparing the deed or transfer instrument.
- ☑ Designation Agreements: The parties may designate another eligible party; must be in writing and kept for 5 years.

What Must Be Reported?

The report includes information necessary to identify the reporter, the transaction, the entity and beneficial owners of that entity. Below are examples of the type of information required. This is not an exhaustive list. Reporters should confirm they have all the information required by the rule.

- ☑ Reporting Person: Legal name, role category, address.

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- ☑ Property: Address, legal description, closing date.
- ☑ Transferor: Identifying information (name, DOB, address, TIN).
- ☑ Transferee Entity or Trust: Trustee information, Name, TIN, address, date trust executed.
- ☑ Beneficial Owners: Individuals owning ≥25% OR with substantial control; name, DOB, address, TIN.
- ☑ Individuals Signing for Transferee.
- ☑ Payment Details: Total consideration, source accounts, payor details.
- ☑ Private/Hard-Money Lending information if applicable.
- ☑ Total consideration paid for the property, along with information about payments made by the transfer entity/trust.
- ☑ In a reportable transaction, information is required for deposits made by the principals and third parties.

Filing Deadline

- ☑ A Real Estate Report must be filed by the later of the last day of the month in which closing occurs or 30 days after closing, whichever is later.

Recordkeeping Requirements

- ☑ Must retain for 5 years: buyer's beneficial-ownership certification and any designation agreement. No need to retain the report itself.
- ☑ Even if you do not report, any party to a designation agreement must keep a copy for 5 years.

Where to File

- ☑ Unless you are reporting through a third-party vendor, you will need to create an account through the FinCEN reporting portal, with a BSA (Bank Secrecy Act) E-Filing account.
- ☑ You will need a FinCEN ID, which you will get with an account here: <https://login.gov/>
 - Complete the application and submit with a copy of an identification document to receive your FinCEN ID.
- ☑ Set up your BSA e-filing account here: <https://www.fincen.gov/rre>
 - You will set up a Supervisor for your firm, then you can set up additional users for your team.

- Once you are set up, you can file PDF reports individually or in batches, or directly from some Title Production Software or Escrow software.
- ☑ For technical assistance, you can find e-filing information here:
<https://www.fincen.gov/system/files/2025-12/QRG-RER.pdf>

Key Takeaways for Attorneys

- ☑ Attorneys, as closing and settlement agents, often serve cascade-priority roles and will generally be the reporting person. If you think you are not the reporting person, get confirmation in writing of who is reporting with a designation agreement.
- ☑ Failure to file when required may result in civil or criminal penalties.
- ☑ Create an office plan:
 - Are there other people in your office that are not real estate attorneys who do the occasional transfer? This may be folks in estate planning, family law, construction, or other attorneys in your firm who close real estate transfers incidental to their practice.
 - Who is responsible for the physical act of recording in your office?
 - Who is going to be your FinCEN Reporting expert?
 - Where do you need to update your workflow?
 - Do you need to update your engagement letter?
 - Are you going to have standard document templates for reporting for clients?
 - Will you be charging an additional fee for the reporting costs?

Additional Resources

- ☑ The actual reporting rule can be found here:
<https://www.federalregister.gov/documents/2024/08/29/2024-19198/anti-money-laundering-regulations-for-residential-real-estate-transfers>
- ☑ The FinCEN Residential Real Estate Website is here: <https://www.fincen.gov/rre> - Check the website early and often for instructions, FAQs, technical filing guidance, and other reference materials.
- ☑ You will also find additional Chicago Title resources on our website here:
<https://www.northcarolina.ctic.com/legal-articles> on the FinCEN Resource section.
 - This includes fact sheets, flowcharts and a workbook with buyer and seller checklists!

- Check out Chicago Title Academy for a (non-CLE credit) webinar here:
<https://www.pathlms.com/chicago-title>
- ☑ Your closing software provider may have additional information on reporting, and may also facilitate reporting.
 - SoftPro has added reporting solutions to their software. Get links to webinars and more information here: <https://blog.softprocorp.com/now-available-softpros-fincen-aml-data-collection-solutions>
 - Qualia has also added reporting resources to their software. Get more information here: <https://blog.qualia.com/navigate-fincen-with-confidence-qualias-new-solution-helps-you-stay-compliant/>

Contact our North Carolina Chicago Title Counsel if you have any questions.

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