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TAKE JUDICIAL NOTICE

FinCEN Real Estate Reporting Requirements

Effective March 1, 2026

Please be advised that the Financial Crimes Enforcement Network (“FinCEN”) has adopted new regulations codified at [31 C.F.R. § 1031.320](#), which are scheduled to take effect on **March 1, 2026** (the “Regulations”).

These Regulations significantly expand the current FinCEN reporting framework that has historically applied only through Geographic Targeting Orders. Once effective, the reporting requirements will apply **nationwide, without regard to transaction amount**, and will mandate reporting for certain residential real estate transfers that meet specified criteria, including accommodation zero consideration transfers.

Transactions Subject to Reporting

A FinCEN Real Estate Report will be required for a transaction if **all** of the following conditions are met and no exemption applies:

- The property being transferred qualifies as “**residential real property**”¹;
- The transfer is either:
 - **Non-financed, or**
 - Financed by a lender that is **not FDIC-insured** and **not otherwise required to maintain an anti-money laundering (“AML”) program**; and
- Title to the property is transferred to an **entity** or **trust**.

For purposes of the Regulations, most **hard-money lenders** and other private lenders that are not regulated by the FDIC, a state department of financial services, or another governmental authority with AML oversight will generally be treated as **non-financed transfers**.

If there is uncertainty as to whether a lender is obligated to maintain an AML program and file Suspicious Activity Reports, the lender should be contacted directly to confirm its regulatory status.

¹All 1-4 family dwellings, Residential Condominiums, Cooperative Apartments and Mixed used properties that include 1-4 family residences

Responsibility for Filing – The Reporting Cascade

When a transaction meets the reporting criteria and is not otherwise exempt, the obligation to file the FinCEN Real Estate Report is designated based on the following order, referred to as the “reporting cascade”:

1. The individual or entity identified as the **closing or settlement agent** on the closing or settlement statement;
2. If no closing or settlement agent is involved, the person or entity that **prepares the closing or settlement statement**; or

3. If neither of the above applies, the person or entity that **records the deed or other transfer instrument** with the applicable recording office.

The first party in the cascade that is involved in the transaction bears the legal responsibility for filing the report.

Information Required to Be Collected and Reported

The reporting party must collect and submit information sufficient to:

1. Identify the **reporting person or entity**;
2. Identify the **residential real property** being transferred;
3. Identify the **transferor**; and
4. Identify the **transferee entity or transferee trust**, including required information regarding beneficial ownership.

For any **beneficial owner** of a transferee entity or transferee trust, the reporting person must collect the following:

- Full legal name
 - Date of birth
 - Residential address
 - Citizenship
 - Taxpayer Identification Number
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Beneficial Ownership Definitions

Beneficial Owner of a Transferee Entity

An individual who, as of the date of closing, either:

- Directly or indirectly exercises **substantial control** over the transferee entity; or
- Owns or controls **25% or more** of the ownership interests of the transferee entity.

Beneficial Owners of a Transferee Trust

An individual who, as of the date of closing:

- Serves as a **trustee**;
 - Possesses authority to dispose of trust assets (including a **trust protector**, where applicable);
 - Is a beneficiary who is either:
 - The sole permissible recipient of income and principal, or
 - Entitled to demand distributions or withdraw substantially all trust assets;
 - Is a **grantor or settlor** with the right to revoke the trust or withdraw trust assets; or
 - Is the beneficial owner of a legal entity or trust that occupies any of the roles described above, subject to applicable exemptions.
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These Regulations impose new compliance obligations on parties involved in residential real estate transactions, particularly settlement agents and professionals engaged in entity-based or trust-based transfers. We recommend that clients review internal procedures in advance of the March 1, 2026 effective date and consult with our Legal Department regarding applicability to specific transactions.

If you have any questions feel free to contact our Legal Department
at (800) 281-8485 or info@judicialtitle.com

