

1 A bill to be entitled
 2 An act relating to real property fraud; creating s.
 3 28.47, F.S.; requiring the clerk of the circuit court
 4 to create, maintain, and operate an opt-in recording
 5 notification service; providing definitions; requiring
 6 such clerk to ensure that registration for such
 7 service is possible through an electronic registration
 8 portal; specifying portal and notification
 9 requirements; providing immunity from liability for
 10 the clerk; providing construction; providing for
 11 applicability of the section to property appraisers;
 12 creating s. 65.091, F.S.; clarifying that an action
 13 may be brought under ch. 65, F.S., to quiet title
 14 after a fraudulent attempted conveyance; requiring the
 15 court to quiet title and award certain title and
 16 rights under certain circumstances; directing the
 17 clerk of the circuit court to provide a simplified
 18 complaint form; creating s. 475.5025, F.S.; requiring
 19 a real estate licensee to send a fraud prevention
 20 notice under specified circumstances; providing form
 21 language for such notice; providing for applicability;
 22 limiting the liability of a real estate licensee for
 23 noncompliance but providing that such noncompliance
 24 may be introduced as evidence for certain violations;
 25 providing that the failure of a property owner to

26 | respond to the notice does not preclude or limit the
27 | ability to establish certain challenges or defenses or
28 | limit his or her remedy in any quiet title or
29 | declaratory judgment action; amending s. 626.8411,
30 | F.S.; providing for applicability relating to title
31 | insurance agents and agencies and title insurers;
32 | creating s. 627.799, F.S.; requiring parties providing
33 | real estate transaction closing services to send a
34 | fraud prevention notice under specified circumstances;
35 | providing form language for such notice; providing for
36 | applicability; limiting a closing service provider's
37 | liability for noncompliance but permitting such
38 | noncompliance to be introduced as evidence establish
39 | certain violations; providing that the failure of a
40 | property owner to respond to the notice does not
41 | preclude or limit the ability to establish certain
42 | challenges or defenses or limit his or her remedy in
43 | any quiet title or declaratory judgment action;
44 | providing applicability relating to the title
45 | insurer's obligations; creating s. 689.025, F.S.;
46 | prescribing the form for a quitclaim deed; amending s.
47 | 695.26, F.S.; revising the requirements for recording
48 | instruments affecting real property; providing an
49 | effective date.

50

51 Be It Enacted by the Legislature of the State of Florida:

52

53 Section 1. Section 28.47, Florida Statutes, is created to
54 read:

55 28.47 Recording notification service.-

56 (1) On or before July 1, 2024, each clerk of the circuit
57 court must create, maintain, and operate a free recording
58 notification service which is open to all persons wishing to
59 register for the service. For purposes of this section, the
60 term:

61 (a) "Land record" means a deed, mortgage, or other
62 document purporting to convey or encumber real property.

63 (b) "Monitored identity" means a personal or business name
64 or a parcel identification number submitted by a registrant for
65 monitoring under a recording notification service.

66 (c) "Recording notification" means a notification sent by
67 electronic mail indicating to a registrant that a land record
68 associated with the registrant's monitored identity has been
69 recorded in the public records of the county.

70 (d) "Recording notification service" means a service which
71 sends automated recording notifications.

72 (e) "Registrant" means a person who registers for a
73 recording notification service.

74 (2) The clerk must ensure that registration for the
75 recording notification service is possible through an electronic

76 registration portal, which portal must:

77 (a) Be accessible through a direct link on the home page
 78 of the clerk's official public website;

79 (b) Allow a registrant to subscribe to receive recording
 80 notifications for at least five monitored identities per valid
 81 electronic mail address provided;

82 (c) Include a method by which a registrant may unsubscribe
 83 from the service;

84 (d) List a phone number at which the clerk's office may be
 85 contacted during normal business hours with questions related to
 86 the service; and

87 (e) Send an automated electronic mail message to a
 88 registrant confirming his or her successful registration for or
 89 action to unsubscribe from the service, which message must
 90 identify each monitored identity for which a subscription was
 91 received or canceled.

92 (3) When a land record is recorded for a monitored
 93 identity, a recording notification must be sent within 24 hours
 94 after the recording to each registrant who is subscribed to
 95 receive recording notifications for that monitored identity.
 96 Such notification must contain, at a minimum:

97 (a) Information identifying the monitored identity for
 98 which the land record was filed;

99 (b) The land record's recording date;

100 (c) The official record book and page number or instrument

101 number assigned to the land record by the clerk;

102 (d) Instructions for electronically searching for and
103 viewing the land record using the assigned official record book
104 and page number or instrument number; and

105 (e) A phone number at which the clerk's office may be
106 contacted during normal business hours with questions related to
107 the recording notification.

108 (4) There is no right or cause of action against, and no
109 civil liability on the part of, the clerk with respect to the
110 creation, maintenance, or operation of a recording notification
111 service as required by this section.

112 (5) Nothing in this section may be construed to require
113 the clerk to provide or allow access to a record or information
114 which is confidential and exempt from s. 119.07(1) and s. 24(a),
115 Art. I of the State Constitution or to otherwise violate the
116 public records laws of this state.

117 (6) This section shall also apply to county property
118 appraisers that adopt an electronic land record notification
119 service.

120 (a) The property appraiser may adopt a verification
121 process for persons wishing to register for the electronic land
122 records notification service to ensure integrity of the process.

123 (b) For purposes of this subsection only, and
124 notwithstanding the provisions in paragraph (1)(a) and
125 subsection (3):

126 (i) "Land record" means a deed or other document,
 127 purporting to convey real property.

128 (ii) When a land record is recorded for a monitored
 129 identity, a recording notification must be sent to each
 130 registrant who is subscribed to receive recording notifications
 131 for that monitored identity within 24 hours of the instrument
 132 being reflected on the county tax roll by the property
 133 appraiser.

134 Section 2. Section 65.091, Florida Statutes, is created to
 135 read:

136 65.091 Quieting title; fraudulent conveyances.-

137 (1) An action to quiet title based on a fraudulent
 138 attempted conveyance allegation may be maintained under this
 139 chapter, and this remedy is cumulative to other existing
 140 remedies. A petitioner bringing an action to quiet title based
 141 on such allegations is entitled to summary procedure under s.
 142 51.011, and the court shall advance the cause on the calendar.

143 (2) In an action to quiet title, when the court determines
 144 that an attempt was made to fraudulently convey the land at
 145 issue away from a plaintiff who had legal title to the land
 146 before the conveyance, the court must quiet title in and award
 147 the plaintiff with the same title and rights to the land that
 148 the plaintiff enjoyed before the attempted conveyance.

149 (3) The clerk of the circuit court must provide a
 150 simplified form for the filing of a complaint to quiet title

151 based on a fraudulent attempted conveyance allegation and
 152 instructions for completing such form.

153 Section 3. Section 475.5025, Florida Statutes, is created
 154 to read:

155 475.5025 Fraud prevention notice on listing.-

156 (1) (a) To help prevent real estate fraud and identity
 157 theft, within 5 business days after entering into a brokerage
 158 relationship with the potential seller of property, the real
 159 estate licensee must cause a notice to be sent by first-class
 160 mail to the potential seller at the mailing address of the owner
 161 shown in the online records of the tax collector. Such notice
 162 must be in substantially the following form:

163
 164 (Brokerage letterhead)

165
 166 To help prevent real estate fraud and identity theft, the State
 167 of Florida requires us to notify you that (name of real estate
 168 broker) has been engaged by (potential seller) to market and
 169 sell the property at (address, city, and state). If you believe
 170 this is in error, please notify us immediately at (phone number
 171 and e-mail).

172
 173 The notice may include a letter thanking the potential seller
 174 for the listing and such other additional information as the
 175 licensee may deem appropriate.

176 (b) When the records of the tax collector show a different
177 owner of the property in the preceding year's tax bill, the real
178 estate licensee must, within 5 business days after entering into
179 a brokerage relationship with the potential seller of property,
180 additionally cause a notice to be sent by first-class mail to
181 the prior owner at the mailing address of the prior owner shown
182 in the online records of the tax collector. Such notice must be
183 in substantially the following form:

184
185 (Brokerage letterhead)

186
187 To help prevent real estate fraud and identity theft, the State
188 of Florida requires us to notify you that (name of real estate
189 broker) has been engaged by (potential seller) to market and
190 sell the property you formerly owned at (address, city, and
191 state). If you believe this is in error, or still claim an
192 interest in this property, please notify us immediately at
193 (phone number and e-mail).

194
195 (2) (a) Failure to comply with this section does not impair
196 the validity or enforceability of any listing agreement,
197 purchase and sale agreement, deed, mortgage, or other instrument
198 or agreement made or delivered in connection with a real estate
199 sale transaction.

200 (b) A real estate licensee has no liability to the actual

201 or claimed owner of a property or a putative purchaser thereof
 202 solely because of his or her failure to comply with this
 203 section. However, any such noncompliance may be introduced as
 204 evidence to establish violations of this chapter or as an
 205 indication of possible fraud, forgery, impersonation, duress,
 206 incapacity, undue influence, illegality, or unconscionability,
 207 or for other evidentiary purposes.

208 (c) The failure of the actual property owner to respond to
 209 the mailing does not preclude or limit the ability of such owner
 210 to establish possible fraud, forgery, impersonation, duress,
 211 incapacity, undue influence, minority, illegality, or
 212 unconscionability, or any other challenges or defenses to any
 213 real estate transaction, or to limit such owner's remedy in any
 214 quiet title or declaratory judgment action.

215 Section 4. Subsection (3) is added to section 626.8411,
 216 Florida Statutes, to read:

217 626.8411 Application of Florida Insurance Code provisions
 218 to title insurance agents or agencies.—

219 (3) Section 627.799 applies to title insurance agents and
 220 agencies and to title insurers only to the extent any of the
 221 foregoing are actually engaged in providing closing services for
 222 a particular transaction.

223 Section 5. Section 627.799, Florida Statutes, is created
 224 to read:

225 627.799 Fraud prevention notice upon opening order.—

226 (1) (a) To help prevent real estate fraud and identity
 227 theft, within 5 business days after opening an order to ensure a
 228 sale of real property or refinance of a mortgage encumbering
 229 real property, the party scheduled to provide closing services
 230 must cause a notice to be sent by first-class mail to the seller
 231 or borrower at the mailing address of the owner shown in the
 232 online records of the tax collector. Such notice must be in
 233 substantially the following form:

234
 235 (Letterhead of closing service provider)

236
 237 To help prevent real estate fraud and identity theft, the State
 238 of Florida requires us to notify you that (name of closing
 239 service provider) has been engaged to (handle the sale of)
 240 (coordinate the closing of a mortgage in favor of (name of
 241 lender) secured by) the property located at (address, city, and
 242 state). If you believe this is in error, please notify us
 243 immediately at (phone number and e-mail).

244
 245 The mailing may include a letter thanking the seller or borrower
 246 for selecting the sender and such other additional information
 247 as the sender may deem appropriate.

248 (b) When the records of the tax collector show a different
 249 owner of the property in the preceding year's tax bill, the
 250 party to provide closing services must, within 5 business days

251 after opening an order to ensure a sale of real property or
 252 refinance of a mortgage encumbering real property, additionally
 253 cause a notice to be mailed by first-class mail to the prior
 254 owner at the mailing address of the prior owner shown in the
 255 online records of the tax collector, which notice must be in
 256 substantially the following form:

257
 258 (Letterhead of closing service provider)

259
 260 To help prevent real estate fraud and identity theft, the State
 261 of Florida requires us to notify you that (name of closing
 262 service provider) has been engaged to (handle the sale of
 263 property) (coordinate the closing of a mortgage against
 264 property) you formerly owned at (address, city, and state). If
 265 you believe this is in error, or still claim an interest in this
 266 property, please notify us immediately at (phone number and e-
 267 mail).

268
 269 (c) Separate notice is not required to a borrower who is
 270 acquiring the property and placing the mortgage in the same
 271 closing.

272 (2)(a) Failure to comply with this section does not impair
 273 the validity or enforceability of any escrow instructions,
 274 purchase and sale agreement, deed, mortgage, or other instrument
 275 or agreement made or delivered in connection with a real estate

276 transaction.

277 (b) The closing service provider does not have any
278 liability to the actual or claimed owner of a property or a
279 putative purchaser thereof solely because of the failure to
280 comply with this section. However, any noncompliance may be
281 introduced as evidence to establish violations of this chapter
282 or as an indication of possible fraud, forgery, impersonation,
283 duress, incapacity, undue influence, illegality, or
284 unconscionability, or for other evidentiary purposes.

285 (c) The failure of the actual property owner to respond to
286 the mailing does not preclude or limit the ability of such owner
287 to establish possible fraud, forgery, impersonation, duress,
288 incapacity, undue influence, minority, illegality, or
289 unconscionability or any other challenges or defenses to any
290 real estate transaction, or to limit such owner's remedy in any
291 quiet title or declaratory judgment action.

292 (d) This section does not alter or limit the obligations
293 of the title insurer under any title insurance policy issued in
294 connection with a real estate transaction.

295 Section 6. Section 689.025, Florida Statutes, is created
296 to read:

297 689.025 Form of quitclaim deed prescribed.-A quitclaim
298 deed of conveyance to real property or an interest therein must:

299 (1) Be in substantially the following form:
300

301 This Quitclaim Deed, executed this (date) day of (month, year),
 302 by first party, Grantor (name), whose post-office address is
 303 (address), to second party, Grantee (name), whose post-office
 304 address is (address).

305
 306 Witnesseth, that the said first party, for the sum of \$(amount),
 307 and other good and valuable consideration paid by the second
 308 party, the receipt whereof is hereby acknowledged, does hereby
 309 remise, release, and quitclaim unto the said second party
 310 forever, all the right, title, interest, claim, and demand which
 311 the said first party has in and to the following described
 312 parcel of land, and all improvements and appurtenances thereto,
 313 in (county), Florida:

314
 315 (Legal description)
 316

317 (2) Include the legal description of the real property the
 318 instrument purports to convey, or in which the instrument
 319 purports to convey an interest, which description must be
 320 legibly printed, typewritten, or stamped thereon.

321 (3) Include a blank space for the parcel identification
 322 number assigned to the real property the instrument purports to
 323 convey, or in which the instrument purports to convey an
 324 interest, which number, if available, must be entered on the
 325 deed before it is presented for recording. The failure to

326 include such blank space or the parcel identification number
 327 does not affect the validity of the conveyance or the
 328 recordability of the deed. Such parcel identification number is
 329 not a part of the legal description of the property otherwise
 330 set forth in the instrument and may not be used as a substitute
 331 for the legal description required by this section.

332 Section 7. Paragraph (c) of subsection (1) of section
 333 695.26, Florida Statutes, is amended to read:

334 695.26 Requirements for recording instruments affecting
 335 real property.—

336 (1) No instrument by which the title to real property or
 337 any interest therein is conveyed, assigned, encumbered, or
 338 otherwise disposed of shall be recorded by the clerk of the
 339 circuit court unless:

340 (c) The name of each witness to the instrument is legibly
 341 printed, typewritten, or stamped upon such instrument
 342 immediately beneath the signature of such witness and the post-
 343 office address of each such person is legibly printed,
 344 typewritten, or stamped upon such instrument;

345 Section 8. This act shall take effect July 1, 2023.