

By the Committee on Judiciary; and Senator Bradley

590-03309-23

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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,

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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 to  
39 establish certain violations; providing that the  
40 failure of a property owner to respond to the notice  
41 does not preclude or limit the ability to establish  
42 certain challenges or defenses or limit his or her  
43 remedy in any quiet title or declaratory judgment  
44 action; 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

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59 register for the service. For purposes of this section, the  
60 term:

61 (a) "Land record" means a deed, mortgage, or other document  
62 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 of  
78 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

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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 the  
113 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.

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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 process  
121 for persons wishing to register for the electronic land records  
122 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 1. "Land record" means a deed or other document, purporting  
127 to convey real property.

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

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

135 65.091 Quieting title; fraudulent conveyances.-

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

142 (2) In an action to quiet title, when the court determines  
143 that an attempt was made to fraudulently convey the land at  
144 issue away from a plaintiff who had legal title to the land  
145 before the conveyance, the court must quiet title in and award

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146 the plaintiff with the same title and rights to the land that  
147 the plaintiff enjoyed before the attempted conveyance.

148 (3) The clerk of the circuit court must provide a  
149 simplified form for the filing of a complaint to quiet title  
150 based on a fraudulent attempted conveyance allegation and  
151 instructions for completing such form.

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

154 475.5025 Fraud prevention notice on listing.-

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

162  
163 (Brokerage letterhead)

164  
165 To help prevent real estate fraud and identity theft,  
166 the State of Florida requires us to notify you that  
167 (name of real estate broker) has been engaged by  
168 (potential seller) to market and sell the property at  
169 (address, city, and state). If you believe this is in  
170 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

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

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

201 (b) A real estate licensee has no liability to the actual  
202 or claimed owner of a property or a putative purchaser thereof  
203 solely because of his or her failure to comply with this

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204 section. However, any such noncompliance may be introduced as  
205 evidence to establish violations of this chapter or as an  
206 indication of possible fraud, forgery, impersonation, duress,  
207 incapacity, undue influence, illegality, or unconscionability,  
208 or for other evidentiary purposes.

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

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

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

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

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

226 627.799 Fraud prevention notice upon opening order.—

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



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233 online records of the tax collector. Such notice must be in  
234 substantially the following form:

235

236 (Letterhead of closing service provider)

237

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

246

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

250 (b) When the records of the tax collector show a different  
251 owner of the property in the preceding year's tax bill, the  
252 party to provide closing services must, within 5 business days  
253 after opening an order to ensure a sale of real property or  
254 refinance of a mortgage encumbering real property, additionally  
255 cause a notice to be mailed by first-class mail to the prior  
256 owner at the mailing address of the prior owner shown in the  
257 online records of the tax collector, which notice must be in  
258 substantially the following form:

259

260 (Letterhead of closing service provider)

261

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

271  
272 (c) Separate notice is not required to a borrower who is  
273 acquiring the property and placing the mortgage in the same  
274 closing.

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

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

288 (c) The failure of the actual property owner to respond to  
289 the mailing does not preclude or limit the ability of such owner  
290 to establish possible fraud, forgery, impersonation, duress,

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291 incapacity, undue influence, minority, illegality, or  
292 unconscionability or any other challenges or defenses to any  
293 real estate transaction, or to limit such owner's remedy in any  
294 quiet title or declaratory judgment action.

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

298 Section 6. Section 689.025, Florida Statutes, is created to  
299 read:

300 689.025 Form of quitclaim deed prescribed.—A quitclaim deed  
301 of conveyance to real property or an interest therein must:

302 (1) Be in substantially the following form:

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

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

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320 (Legal description)

321

322 (2) Include the legal description of the real property the  
323 instrument purports to convey, or in which the instrument  
324 purports to convey an interest, which description must be  
325 legibly printed, typewritten, or stamped thereon.

326 (3) Include a blank space for the parcel identification  
327 number assigned to the real property the instrument purports to  
328 convey, or in which the instrument purports to convey an  
329 interest, which number, if available, must be entered on the  
330 deed before it is presented for recording. The failure to  
331 include such blank space or the parcel identification number  
332 does not affect the validity of the conveyance or the  
333 recordability of the deed. Such parcel identification number is  
334 not a part of the legal description of the property otherwise  
335 set forth in the instrument and may not be used as a substitute  
336 for the legal description required by this section.

337 Section 7. Paragraph (c) of subsection (1) of section  
338 695.26, Florida Statutes, is amended to read:

339 695.26 Requirements for recording instruments affecting  
340 real property.—

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

345 (c) The name of each witness to the instrument is legibly  
346 printed, typewritten, or stamped upon such instrument  
347 immediately beneath the signature of such witness and the post-  
348 office address of each such person is legibly printed,

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349 typewritten, or stamped upon such instrument;

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