

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing  
5 Sections 3-5010.5 and 3-5010.10 and by adding Section  
6 3-5010.11 as follows:

7 (55 ILCS 5/3-5010.5)

8 Sec. 3-5010.5. Fraud referral and review.

9 (a) Legislative findings. The General Assembly finds that  
10 property fraud, including fraudulent filings intended to cloud  
11 or fraudulently transfer title to property by recording false  
12 or altered documents and deeds, is a rapidly growing problem  
13 throughout the State. In order to combat the increase in the  
14 number of these filings, a recorder may establish a process to  
15 review and refer documents suspected to be fraudulent.

16 (b) Definitions. The terms "recording" and "filing" are  
17 used interchangeably in this Section.

18 (c) Establishment and use of a fraud referral and review  
19 process. Every recorder shall establish ~~A recorder who~~  
20 ~~establishes~~ a fraud referral and review process under the  
21 provisions of this Section ~~may use it~~ to review deeds and  
22 instruments. A recorder may refer, to an administrative law  
23 judge for review under subsection (g) of this Section, any

1 deed or instrument that cause the recorder to reasonably  
2 believe that the filing may be fraudulent, unlawfully altered,  
3 or intended to unlawfully cloud or transfer the title of any  
4 real property. ~~and refer any of them to an administrative law~~  
5 ~~judge for review pursuant to subsection (g) of this Section~~  
6 ~~that cause the recorder to reasonably believe that the filing~~  
7 ~~may be fraudulent, unlawfully altered, or intended to~~  
8 ~~unlawfully cloud or transfer the title of any real property.~~

9 The recorder may enter into an intergovernmental agreement  
10 with local law enforcement officials for the purposes of this  
11 referral and review. A recorder may request that the Secretary  
12 of the Department of Financial and Professional Regulation  
13 assist in reviewing possible fraudulent filings. Upon request,  
14 the Secretary, or the Secretary's designee, shall assist in  
15 identifying the validity of filings. The recorder shall notify  
16 the Secretary when a document suspected to be fraudulent is  
17 discovered.

18 In counties with a population of less than 3 million, a  
19 recorder shall provide public notice 90 days before the  
20 establishment of the fraud referral and review process. The  
21 notice shall include a statement of the recorder's intent to  
22 create a fraud referral and review process and shall be  
23 published in a newspaper of general circulation in the county  
24 and, if feasible, posted on the recorder's website and at the  
25 recorder's office or offices.

26 In determining whether to refer a document to an

1 administrative law judge for review, a recorder may take into  
2 consideration any of the following factors:

3 (1) whether the owner of the property or owner's  
4 designated representative has reported to the recorder  
5 that another individual is attempting or has attempted to  
6 record a fraudulent deed or other instrument upon the  
7 property;

8 (2) whether a law enforcement official has contacted  
9 the recorder indicating that the law enforcement official  
10 has probable cause to suspect title or recording fraud;

11 (3) whether the filer's name has a copyright attached  
12 to it or the property owner's name has nonstandard  
13 punctuation attached to it;

14 (4) whether the documents assert fines that do not  
15 exist or have no basis under current law or that require  
16 payment in gold or silver;

17 (5) whether the documents are maritime liens, or liens  
18 under the Federal Maritime Lien Act or the Preferred Ship  
19 Mortgage Act, or not authorized by the United States Coast  
20 Guard;

21 (6) whether the documents are land patents not  
22 authorized and certified by the United States Department  
23 of the Interior Bureau of Land Management;

24 (7) whether the documents are representing that the  
25 subject of the lien is releasing itself from a lien held by  
26 another entity, with no apparent cooperation or

1 authorization provided by the lienholder;

2 (8) whether the documents are protesting or disputing  
3 a foreclosure proceeding that are not filed within the  
4 foreclosure suit and with the court presiding over the  
5 matter;

6 (9) whether the documents are Uniform Commercial Code  
7 filings referencing birth certificates or other private  
8 records that are not in compliance with Section 9-501 of  
9 the Uniform Commercial Code;

10 (10) whether the documents are re-recording deeds to  
11 re-notarize or attach notary certification if prior  
12 notarization already appears unaltered on the document of  
13 record;

14 (11) whether the documents are asserting diplomatic  
15 credentials or immunity, non-United States citizenship, or  
16 independence from the laws of the United States;

17 (12) whether the documents are claims that a bank  
18 cannot hold title after a foreclosure;

19 (13) whether the documents are deeds not properly  
20 signed by the last legal owner of record or the owner's  
21 court-appointed representative or attorney-in-fact under a  
22 power of attorney;

23 (14) whether the documents are manipulated or altered  
24 federal or State legal or court forms that release a lien;

25 (15) whether a document is not related to a valid  
26 existing or potential adverse transaction, existing lien,

1 or judgment of a court of competent jurisdiction;

2 (16) a document that is not related to a valid  
3 existing or potential commercial or financial transaction,  
4 existing agricultural or other lien, or judgment of a  
5 court of competent jurisdiction;

6 (17) whether the document is filed with the intent to  
7 harass or defraud the person identified in the record or  
8 any other person;

9 (18) whether the document is filed with the intent to  
10 harass or defraud any member of a governmental office,  
11 including, but not limited to, the recorder's office,  
12 local government offices, the State of Illinois, or the  
13 Federal government; and

14 (19) whether the documents are previous court  
15 determinations, including a previous determination by a  
16 court of competent jurisdiction that a particular document  
17 is fraudulent, invalid, or forged.

18 (d) Determinations. If a recorder determines, after review  
19 by legal staff and counsel, that a deed or instrument that is  
20 recorded in the grantor's index or the grantee's index may be  
21 fraudulent, unlawfully altered, or intended to unlawfully  
22 cloud or transfer the title of any real property, the recorder  
23 shall refer the deed or instrument to an administrative law  
24 judge for review pursuant to subsection (g) of this Section.  
25 The recorder shall record a Notice of Referral in the  
26 grantor's index or the grantee's index identifying the

1 document, corresponding document number in question, and the  
2 date of referral. The recorder shall also notify the parties  
3 set forth in subsection (e) of this Section. The recorder may,  
4 at the recorder's discretion, notify law enforcement officials  
5 regarding a filing determined to be fraudulent, unlawfully  
6 altered, or intended to unlawfully cloud or transfer the title  
7 of any real property.

8 (e) Notice. The recorder shall use county property tax  
9 records to identify and provide notice to the last owner of  
10 record by telephone, if available, and certified mail both  
11 when: (1) a deed or instrument has been referred for review and  
12 determination; and (2) a final determination has been made  
13 regarding the deed or instrument. Notice, by mail, shall also  
14 be sent to the physical address of the property associated  
15 with the deed or instrument.

16 (f) Administrative decision. The recorder's decision to  
17 add a Notice of Referral and refer a document for review is a  
18 final administrative decision that is subject to review by the  
19 circuit court of the county where the real property is located  
20 under the Administrative Review Law. The standard of review by  
21 the circuit court shall be de novo.

22 (g) Referral and review process. Prior to referral, the  
23 recorder shall notify the last owner of record of the document  
24 or documents suspected to be fraudulent. The person, entity,  
25 or legal representative thereof shall confirm in writing the  
26 person's, entity's, or legal representative's belief that a

1 document or documents are suspected to be fraudulent and may  
2 request that the recorder refer the case for review. Upon  
3 request, the recorder shall bring a case to its county  
4 department of administrative hearings and, within 10 business  
5 days after receipt, an administrative law judge shall schedule  
6 a hearing to occur no later than 30 days after receiving the  
7 referral. The referral and case shall clearly identify the  
8 person, persons, or entity believed to be the last true owner  
9 of record as the petitioner. Notice of the hearing shall be  
10 provided by the administrative law judge to the filer, or the  
11 party represented by the filer, of the suspected fraudulent  
12 document, the legal representative of the recorder of deeds  
13 who referred the case, and the last owner of record, as  
14 identified in the referral.

15 If clear and convincing evidence shows the document in  
16 question to be fraudulent, the administrative law judge shall  
17 rule the document to be fraudulent and forward the judgment to  
18 all the parties identified in this subsection. Upon receiving  
19 notice of the judgment of fraud, the recorder shall, within 5  
20 business days, record a new document that includes a copy of  
21 the judgment in front of the Notice of Referral that shall  
22 clearly state that the document in question has been found to  
23 be fraudulent and shall not be considered to affect the chain  
24 of title of the property in any way.

25 If the administrative law judge finds the document to be  
26 legitimate, the recorder shall, within 5 business days after

1 receiving notice, record a copy of the judgment.

2 A decision by an administrative law judge shall not  
3 preclude a State's attorney or sheriff from proceeding with a  
4 criminal investigation or criminal charges. If a county does  
5 not have an administrative law judge that specializes in  
6 public records, one shall be appointed within 3 months after  
7 the effective date of this amendatory Act of the 98th General  
8 Assembly, or the original case shall be forwarded to the  
9 proper circuit court with jurisdiction.

10 Nothing in this Section precludes a private right of  
11 action by any party with an interest in the property affected  
12 by the review and referral, or the filer of the document or  
13 documents suspected to be fraudulent. Nothing in this Section  
14 requires a person or entity who may have had a fraudulent  
15 document or encumbrance filed against the person's or entity's  
16 property to use the fraud review and referral process or  
17 administrative review created by this Section.

18 (h) Fees. The recorder shall retain any filing fees  
19 associated with filing a deed or instrument that is determined  
20 to be fraudulent, unlawfully altered, or intended to  
21 unlawfully cloud or transfer the title of any real property  
22 under this Section.

23 (i) Liability. Neither a recorder nor any of the  
24 recorder's employees or agents shall be subject to personal  
25 liability by reason of any error or omission in the  
26 performance of any duty under this Section, except in case of

1 willful or wanton conduct. Neither the recorder nor any of the  
2 recorder's employees shall incur liability for the referral or  
3 review, or failure to refer or review, a document or  
4 instrument under this Section.

5 (j) Applicability. This Section applies only to filings  
6 provided to the recorder on and after the effective date of  
7 this amendatory Act of the 98th General Assembly.

8 (k) (Blank).

9 (Source: P.A. 103-400, eff. 1-1-24.)

10 (55 ILCS 5/3-5010.10)

11 Sec. 3-5010.10. Property fraud alert system; registration  
12 by property owners and real estate professionals.

13 (a) As used in this Section:

14 "Property fraud alert system" means any electronic or  
15 automated alert system run by a county or by a third-party  
16 vendor, by whatever name, that informs a property owner by  
17 e-mail, telephone, or mail when a document is recorded with  
18 the county recorder that relates to a registered property.

19 "Real estate professional" means a licensed real estate  
20 agent, attorney, closing agent, or agent of a title insurance  
21 company.

22 (b) Every county shall establish and maintain a property  
23 fraud alert system. A recorder shall ~~In a county that has a~~  
24 ~~property fraud alert system, a recorder may~~ create a  
25 registration form for a real estate professional to file with

1 the recorder on behalf of a property owner to register the  
2 property owner in the county's property fraud alert system.  
3 The registration form must contain the following minimum  
4 information:

5 (1) A notice on the top of the form that property  
6 owners are not required to register with the county's  
7 property fraud alert system.

8 (2) A description of the county's property fraud alert  
9 system; the name of the third-party vendor, if any, who  
10 operates the property fraud alert system; and the cost, if  
11 any, to the property owner of the property fraud alert  
12 system;

13 (3) A portion to be completed by a property owner and  
14 real estate professional containing:

15 (i) the property owner's name and mailing address;

16 (ii) the Property Index Number (PIN) or unique  
17 parcel identification code of the property for which  
18 an alert will be created;

19 (iii) the e-mail, telephone number, or mailing  
20 address the property owner would like to receive the  
21 alert;

22 (iv) any information a third-party vendor who  
23 operates a county's property fraud alert system  
24 requires to register a property owner;

25 (v) if required, payment method and billing  
26 information;

1           (vi) a clear and conspicuous notice, immediately  
2 before the signatures, stating that the property owner  
3 understands that neither the recorder, nor a  
4 third-party vendor operating a county's property fraud  
5 alert system, nor a real estate professional, nor any  
6 employees thereof shall be liable to the property  
7 owner should the property fraud alert system fail to  
8 alert the property owner of any document being  
9 recorded and that it is the property owner's  
10 responsibility to verify the information he or she has  
11 provided is correct and that he or she is registered  
12 with the property fraud alert system;

13           (vii) a place for the property owner's signature;

14           (viii) a place for the real estate professional's  
15 signature, if applicable, along with a statement  
16 indicating that the real estate professional is  
17 registered with the recorder and is allowed to file  
18 the registration form with the recorder; and

19           (ix) a place to list up to 3 other persons to  
20 receive a property fraud alert, including each  
21 person's e-mail, telephone number, or address where he  
22 or she will receive the alert.

23           (c) A property owner or real estate professional may file  
24 a completed and signed registration form with the recorder.  
25 When a recorder receives such a completed and signed  
26 registration form, the recorder shall complete the

1 registration process for the property owner listed on the  
2 registration form by entering the information from the  
3 registration form into the property fraud alert system.

4 (d) A real estate professional that wishes to file  
5 registration forms with the recorder on behalf of property  
6 owners must first register with the recorder by verifying they  
7 are a licensed real estate agent, attorney, closing agent, or  
8 agent of a title insurance company. The recorder shall keep a  
9 list of all registered real estate professionals.

10 (e) No county, recorder, third-party vendor operating a  
11 county's property fraud alert system, real estate  
12 professional, or any employees thereof shall be subject to  
13 liability, except for willful and wanton misconduct, for any  
14 error or omission in registering a property owner pursuant to  
15 this Section or for any damages caused by the failure of the  
16 property owner to be alerted of any document that was recorded  
17 that relates to a property registered under the owner's name.

18 (f) A home rule unit shall not use or create a registration  
19 form for use by a real estate professional to register a  
20 property owner on the county's property fraud alert system  
21 that conflicts with this Section. This Section is a limitation  
22 under subsection (i) of Section 6 of Article VII of the  
23 Illinois Constitution on the concurrent exercise by home rule  
24 units of powers and functions exercised by the State. However,  
25 nothing in this Section shall prevent any person from signing  
26 up for a property fraud alert system by other means than those

1 provided for in this Section, including, but not limited to,  
2 on a county's website or a third-party vendor's website that  
3 hosts a property fraud alert system.

4 (Source: P.A. 99-75, eff. 1-1-16.)

5 (55 ILCS 5/3-5010.11 new)

6 Sec. 3-5010.11. Private right of action. Any person who  
7 files or causes to be filed a deed or instrument that is  
8 recorded in the grantor's index or the grantee's index that is  
9 fraudulent, unlawfully altered, or intended to unlawfully  
10 cloud or transfer the title of any real property may be held  
11 liable to the rightful property owner affected in an action  
12 brought in a court of competent jurisdiction for such legal or  
13 equitable relief as may be appropriate to enforce this Code.