

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 adding Section  
5 3-5010.5 as follows:

6 (55 ILCS 5/3-5010.5 new)

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

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

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

17 (c) Establishment and use of a fraud referral and review  
18 process. A recorder who establishes a fraud referral and review  
19 process under the provisions of this Section may use it to  
20 review deeds and instruments and refer any of them to an  
21 administrative law judge for review pursuant to subsection (g)  
22 of this Section that cause the recorder to reasonably believe  
23 that the filing may be fraudulent, unlawfully altered, or

1 intended to unlawfully cloud or transfer the title of any real  
2 property. The recorder may enter into an intergovernmental  
3 agreement with local law enforcement officials for the purposes  
4 of this referral and review. A recorder may request that the  
5 Secretary of the Department of Financial and Professional  
6 Regulation assist in reviewing possible fraudulent filings.  
7 Upon request, the Secretary, or his or her designee, shall  
8 assist in identifying the validity of filings. The recorder  
9 shall notify the Secretary when a document suspected to be  
10 fraudulent is discovered.

11 In counties with a population of less than 3 million, a  
12 recorder shall provide public notice 90 days before the  
13 establishment of the fraud referral and review process. The  
14 notice shall include a statement of the recorder's intent to  
15 create a fraud referral and review process and shall be  
16 published in a newspaper of general circulation in the county  
17 and, if feasible, posted on the recorder's website and at the  
18 recorder's office or offices.

19 In determining whether to refer a document to an  
20 administrative law judge for review, a recorder may take into  
21 consideration any of the following factors:

22 (1) whether the owner of the property or his or her  
23 designated representative has reported to the recorder  
24 that another individual is attempting or has attempted to  
25 record a fraudulent deed or other instrument upon the  
26 property;

1           (2) whether a law enforcement official has contacted  
2           the recorder indicating that he or she has probable cause  
3           to suspect title or recording fraud;

4           (3) whether the filer's name has a copyright attached  
5           to it or the property owner's name has nonstandard  
6           punctuation attached to it;

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

10           (5) whether the documents are maritime liens, or liens  
11           under the Federal Maritime Lien Act or the Preferred Ship  
12           Mortgage Act, or not authorized by the United States Coast  
13           Guard;

14           (6) whether the documents are land patents not  
15           authorized and certified by the United States Department of  
16           the Interior Bureau of Land Management;

17           (7) whether the documents are representing that the  
18           subject of the lien is releasing itself from a lien held by  
19           another entity, with no apparent cooperation or  
20           authorization provided by the lienholder;

21           (8) whether the documents are protesting or disputing a  
22           foreclosure proceeding that are not filed within the  
23           foreclosure suit and with the court presiding over the  
24           matter;

25           (9) whether the documents are Uniform Commercial Code  
26           filings referencing birth certificates or other private

1 records that are not in compliance with Section 9-501 of  
2 the Uniform Commercial Code;

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

7 (11) whether the documents are asserting diplomatic  
8 credentials or immunity, non-United States citizenship, or  
9 independence from the laws of the United States;

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

12 (13) whether the documents are deeds not properly  
13 signed by the last legal owner of record or his or her  
14 court appointed representative or attorney-in-fact under a  
15 power of attorney;

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

18 (15) whether a document is not related to a valid  
19 existing or potential adverse transaction, existing lien,  
20 or judgment of a court of competent jurisdiction;

21 (16) a document that is not related to a valid existing  
22 or potential commercial or financial transaction, existing  
23 agricultural or other lien, or judgment of a court of  
24 competent jurisdiction;

25 (17) whether the document is filed with the intent to  
26 harass or defraud the person identified in the record or

1 any other person;

2 (18) whether the document is filed with the intent to  
3 harass or defraud any member of a governmental office,  
4 including, but not limited to, the recorder's office, local  
5 government offices, the State of Illinois, or the Federal  
6 government; and

7 (19) whether the documents are previous court  
8 determinations, including a previous determination by a  
9 court of competent jurisdiction that a particular document  
10 is fraudulent, invalid, or forged.

11 (d) Determinations. If a recorder determines, after review  
12 by legal staff and counsel, that a deed or instrument may be  
13 fraudulent, unlawfully altered, or intended to unlawfully  
14 cloud or transfer the title of any real property, he or she  
15 shall refer the deed or instrument to an administrative law  
16 judge for review pursuant to subsection (g) of this Section.  
17 The recorder shall place a Notice of Referral in his or her  
18 Property Index identifying the document, corresponding  
19 document number in question, and the date of referral. The  
20 recorder shall also notify the parties set forth in subsection  
21 (e) of this Section. The recorder may, at his or her  
22 discretion, notify law enforcement officials regarding a  
23 filing determined to be fraudulent, unlawfully altered, or  
24 intended to unlawfully cloud or transfer the title of any real  
25 property.

26 (e) Notice. The recorder shall use county property tax

1 records to identify and provide notice to the last owner of  
2 record by telephone, if available, and certified mail both  
3 when: (1) a deed or instrument has been referred for review and  
4 determination; and (2) a final determination has been made  
5 regarding the deed or instrument.

6 (f) Administrative decision. The recorder's decision to  
7 add a Notice of Referral and refer a document for review is a  
8 final administrative decision that is subject to review by the  
9 circuit court of the county where the real property is located  
10 under the Administrative Review Law. The standard of review by  
11 the circuit court shall be de novo.

12 (g) Referral and review process. The recorder shall bring a  
13 case to its county department of administrative hearings and,  
14 within 10 business days after receipt, an administrative law  
15 judge shall schedule a hearing to occur no later than 30 days  
16 after receiving the referral. Notice of the hearing shall be  
17 provided by the administrative law judge to the filer, or the  
18 party represented by the filer, of the suspected fraudulent  
19 document, the legal representative of the recorder of deeds who  
20 referred the case, and the last owner of record, as identified  
21 in the referral.

22 If a preponderance of the evidence shows the document in  
23 question to be fraudulent, the administrative law judge shall  
24 rule the document to be fraudulent and forward the judgment to  
25 all the parties identified in this subsection. Upon receiving  
26 notice of the judgment of fraud, the recorder shall, within 5

1 business days, record a new document that includes a copy of  
2 the judgment in front of the Notice of Referral that shall  
3 clearly state that the document in question has been found to  
4 be fraudulent and shall not be considered to affect the chain  
5 of title of the property in any way.

6 If the administrative law judge finds the document to be  
7 legitimate, the recorder shall, within 5 business days after  
8 receiving notice, record a copy of the judgment.

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

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

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

1 shall incur liability for the referral or review, or failure to  
2 refer or review, a document or instrument under this Section.

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

6 (k) This Section is repealed June 1, 2018.

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.