



Rep. Lou Lang

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09800HB2832ham001

LRB098 10729 OMW 44437 a

1 AMENDMENT TO HOUSE BILL 2832

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2832 by replacing  
3 everything after the enacting clause with the following:

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.

1       (c) Establishment and use of a fraud referral and review  
2 process. A recorder who establishes a fraud referral and review  
3 process under the provisions of this Section may use it to  
4 review deeds and instruments and refer any of them to an  
5 administrative law judge for review pursuant to subsection (g)  
6 of this Section that cause the recorder to reasonably believe  
7 that the filing may be fraudulent, unlawfully altered, or  
8 intended to unlawfully cloud or transfer the title of any real  
9 property. The recorder may enter into an intergovernmental  
10 agreement with local law enforcement officials for the purposes  
11 of this referral and review. A recorder may request that the  
12 Secretary of the Department of Financial and Professional  
13 Regulation assist in reviewing possible fraudulent filings.  
14 Upon request, the Secretary, or his or her designee, shall  
15 assist in identifying the validity of filings. The recorder  
16 shall notify the Secretary when a document suspected to be  
17 fraudulent is 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 his or her  
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 he or she has probable cause  
10 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 of  
23 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 a  
3 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 his or her  
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 existing  
3 or potential commercial or financial transaction, existing  
4 agricultural or other lien, or judgment of a court of  
5 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, local  
12 government offices, the State of Illinois, or the Federal  
13 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 may be  
20 fraudulent, unlawfully altered, or intended to unlawfully  
21 cloud or transfer the title of any real property, he or she  
22 shall refer the deed or instrument to an administrative law  
23 judge for review pursuant to subsection (g) of this Section.  
24 The recorder shall place a Notice of Referral in his or her  
25 Property Index identifying the document, corresponding  
26 document number in question, and the date of referral. The

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

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

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

19 (g) Referral and review process. The recorder shall bring a  
20 case to its county department of administrative hearings and,  
21 within 10 business days after receipt, an administrative law  
22 judge shall schedule a hearing to occur no later than 30 days  
23 after receiving the referral. Notice of the hearing shall be  
24 provided by the administrative law judge to the filer, or the  
25 party represented by the filer, of the suspected fraudulent  
26 document, the legal representative of the recorder of deeds who

1 referred the case, and the last owner of record, as identified  
2 in the referral.

3 If a preponderance of the evidence shows the document in  
4 question to be fraudulent, the administrative law judge shall  
5 rule the document to be fraudulent and forward the judgment to  
6 all the parties identified in this subsection. Upon receiving  
7 notice of the judgment of fraud, the recorder shall, within 5  
8 business days, record a new document that includes a copy of  
9 the judgment in front of the Notice of Referral that shall  
10 clearly state that the document in question has been found to  
11 be fraudulent and shall not be considered to affect the chain  
12 of title of the property in any way.

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

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

24 (h) Fees. The recorder shall retain any filing fees  
25 associated with filing a deed or instrument that is determined  
26 to be fraudulent, unlawfully altered, or intended to unlawfully

1 cloud or transfer the title of any real property under this  
2 Section.

3 (i) Liability. Neither a recorder nor any of his or her  
4 employees or agents shall be subject to personal liability by  
5 reason of any error or omission in the performance of any duty  
6 under this Section, except in case of willful or wanton  
7 conduct. Neither the recorder nor any of his or her employees  
8 shall incur liability for the referral or review, or failure to  
9 refer or review, a document or instrument under this Section.

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

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

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.".