

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; creating s. 65.091,
11 F.S.; clarifying that an action may be brought under
12 ch. 65, F.S., to quiet title after a fraudulent
13 attempted conveyance; requiring the court to quiet
14 title and award certain title and rights under certain
15 circumstances; directing the clerk of the circuit
16 court to provide a simplified complaint form; creating
17 s. 475.5025, F.S.; requiring a real estate licensee to
18 send a fraud prevention notice under specified
19 circumstances; providing form language for such
20 notice; providing for applicability; limiting the
21 liability of a real estate licensee for noncompliance
22 but providing that such noncompliance may be
23 introduced as evidence for certain violations;
24 providing that the failure of a property owner to
25 respond to the notice does not preclude or limit the

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

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75

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

28.47 Recording notification service.—

(1) The clerk of the circuit court must create, maintain, and operate a free recording notification service which is open to all persons wishing to register for the service. For purposes of this section, the term:

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

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

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

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

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

(2) The clerk must ensure that registration for the recording notification service is possible through an electronic registration portal, which portal must:

(a) Be accessible through a direct link on the home page

76 of the clerk's official public website;

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

80 (c) Include a method by which a registrant may unsubscribe
81 from the service;

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

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

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

95 (a) Information identifying the monitored identity for
96 which the land record was filed;

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

98 (c) The official record book and page number or instrument
99 number assigned to the land record by the clerk;

100 (d) Instructions for electronically searching for and

101 viewing the land record using the assigned official record book
 102 and page number or instrument number; and

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

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

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

115 Section 2. Section 65.091, Florida Statutes, is created to
 116 read:

117 65.091 Quieting title; fraudulent conveyances.—

118 (1) An action to quiet title based on a fraudulent
 119 attempted conveyance allegation may be maintained under this
 120 chapter, and this remedy is cumulative to other existing
 121 remedies. A petitioner bringing an action to quiet title based
 122 on such allegations is entitled to summary procedure under s.
 123 51.011, and the court shall advance the cause on the calendar.

124 (2) In an action to quiet title, when the court determines
 125 that an attempt was made to fraudulently convey the land at

HB 1419

2023

126 issue away from a plaintiff who had legal title to the land
127 before the conveyance, the court must quiet title in and award
128 the plaintiff with the same title and rights to the land that
129 the plaintiff enjoyed before the attempted conveyance.

130 (3) The clerk of the circuit court must provide a
131 simplified form for the filing of a complaint to quiet title
132 based on a fraudulent attempted conveyance allegation and
133 instructions for completing such form.

134 Section 3. Section 475.5025, Florida Statutes, is created
135 to read:

136 475.5025 Fraud prevention notice on listing.-

137 (1)(a) To help prevent real estate fraud and identity
138 theft, within 5 business days after entering into a brokerage
139 relationship with the potential seller of property, the real
140 estate licensee must cause a copy of the signed listing
141 agreement to be sent by first-class mail to the potential seller
142 at the mailing address of the owner shown in the online records
143 of the tax collector. The mailing may include a letter thanking
144 the potential seller for the listing and such other additional
145 information as the licensee may deem appropriate.

146 (b) When the records of the tax collector show a different
147 owner of the property in the preceding year's tax bill, the real
148 estate licensee must, within 5 business days after entering into
149 a brokerage relationship with the potential seller of property,
150 additionally cause a notice to be sent by first-class mail to

151 the prior owner at the mailing address of the prior owner shown
152 in the online records of the tax collector. Such notice must be
153 in substantially the following form:

154
155 (Brokerage letterhead)

156
157 To help prevent real estate fraud and identity theft, the State
158 of Florida requires us to notify you that (name of real estate
159 broker) has been engaged by (potential seller) to market and
160 sell the property you formerly owned at (address, city, and
161 state). If you believe this is in error, or still claim an
162 interest in this property, please notify us immediately at
163 (phone number and e-mail).

164
165 (2) (a) Failure to comply with this section does not impair
166 the validity or enforceability of any listing agreement,
167 purchase and sale agreement, deed, mortgage, or other instrument
168 or agreement made or delivered in connection with a real estate
169 sale transaction.

170 (b) A real estate licensee has no liability to the actual
171 or claimed owner of a property or a putative purchaser thereof
172 solely because of his or her failure to comply with this
173 section. However, any such noncompliance may be introduced as
174 evidence to establish violations of this chapter or as an
175 indication of possible fraud, forgery, impersonation, duress,

176 incapacity, undue influence, illegality, or unconscionability,
177 or for other evidentiary purposes.

178 (c) The failure of the actual property owner to respond to
179 the mailing does not preclude or limit the ability of such owner
180 to establish possible fraud, forgery, impersonation, duress,
181 incapacity, undue influence, minority, illegality, or
182 unconscionability, or any other challenges or defenses to any
183 real estate transaction, or to limit such owner's remedy in any
184 quiet title or declaratory judgment action.

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

187 626.8411 Application of Florida Insurance Code provisions
188 to title insurance agents or agencies.—

189 (3) Section 627.799 applies to title insurance agents and
190 agencies and to title insurers only to the extent any of the
191 foregoing are actually engaged in providing closing services for
192 a particular transaction.

193 Section 5. Section 627.799, Florida Statutes, is created
194 to read:

195 627.799 Fraud prevention notice upon opening order.—

196 (1)(a) To help prevent real estate fraud and identity
197 theft, within 5 business days after opening an order to ensure a
198 sale of real property or refinance of a mortgage encumbering
199 real property, the party scheduled to provide closing services
200 must cause a notice to be sent by first-class mail to the seller

HB 1419

2023

201 or borrower at the mailing address of the owner shown in the
202 online records of the tax collector. Such notice must be in
203 substantially the following form:

204
205 (Letterhead of closing service provider)

206
207 To help prevent real estate fraud and identity theft, the State
208 of Florida requires us to notify you that (name of closing
209 service provider) has been engaged to (handle the sale of)
210 (coordinate the closing of a mortgage in favor of (name of
211 lender) secured by) the property located at (address, city, and
212 state). If you believe this is in error, please notify us
213 immediately at (phone number and e-mail).

214
215 The mailing may include a letter thanking the seller or borrower
216 for selecting the sender and such other additional information
217 as the sender may deem appropriate.

218 (b) When the records of the tax collector show a different
219 owner of the property in the preceding year's tax bill, the
220 party to provide closing services must, within 5 business days
221 after opening an order to ensure a sale of real property or
222 refinance of a mortgage encumbering real property, additionally
223 cause a notice to be mailed by first-class mail to the prior
224 owner at the mailing address of the prior owner shown in the
225 online records of the tax collector, which notice must be in

226 substantially the following form:

227

228 (Letterhead of closing service provider)

229

230 In order to help prevent real estate fraud and identity theft,
 231 the State of Florida requires us to send this notice.

232 (Name of closing service provider) has been engaged to (handle
 233 the sale of property) (coordinate the closing of a mortgage
 234 against property) you formerly owned at (address, city, and
 235 state). If you believe this is in error, or still claim an
 236 interest in this property, please notify us immediately at
 237 (phone number and e-mail).

238

239 (c) Separate notice is not required to a borrower who is
 240 acquiring the property and placing the mortgage in the same
 241 closing.

242 (2)(a) Failure to comply with this section does not impair
 243 the validity or enforceability of any escrow instructions,
 244 purchase and sale agreement, deed, mortgage, or other instrument
 245 or agreement made or delivered in connection with a real estate
 246 transaction.

247 (b) The closing service provider does not have any
 248 liability to the actual or claimed owner of a property or a
 249 putative purchaser thereof solely because of the failure to
 250 comply with this section. However, any noncompliance may be

251 introduced as evidence to establish violations of this chapter
 252 or as an indication of possible fraud, forgery, impersonation,
 253 duress, incapacity, undue influence, illegality, or
 254 unconscionability, or for other evidentiary purposes.

255 (c) The failure of the actual property owner to respond to
 256 the mailing does not preclude or limit the ability of such owner
 257 to establish possible fraud, forgery, impersonation, duress,
 258 incapacity, undue influence, minority, illegality, or
 259 unconscionability or any other challenges or defenses to any
 260 real estate transaction, or to limit such owner's remedy in any
 261 quiet title or declaratory judgment action.

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

265 Section 6. Section 689.025, Florida Statutes, is created
 266 to read:

267 689.025 Form of quitclaim deed prescribed.-A quitclaim
 268 deed of conveyance to real property or an interest therein must:

269 (1) Be in substantially the following form:

270
 271 This Quitclaim Deed, executed this (date) day of (month, year),
 272 by first party, Grantor (name), whose post-office address is
 273 (address), to second party, Grantee (name), whose post-office
 274 address is (address).

275

276 Witnesseth, that the said first party, for the sum of \$(amount),
 277 and other good and valuable consideration paid by the second
 278 party, the receipt whereof is hereby acknowledged, does hereby
 279 remise, release, and quitclaim unto the said second party
 280 forever, all the right, title, interest, claim, and demand which
 281 the said first party has in and to the following described
 282 parcel of land, and all improvements and appurtenances thereto,
 283 in (county), Florida:

284
 285 (Legal description)

286
 287 (2) Include the legal description of the real property the
 288 instrument purports to convey, or in which the instrument
 289 purports to convey an interest, which description must be
 290 legibly printed, typewritten, or stamped thereon.

291 (3) Include a blank space for the parcel identification
 292 number assigned to the real property the instrument purports to
 293 convey, or in which the instrument purports to convey an
 294 interest, which number, if available, must be entered on the
 295 deed before it is presented for recording. The failure to
 296 include such blank space or the parcel identification number
 297 does not affect the validity of the conveyance or the
 298 recordability of the deed. Such parcel identification number is
 299 not a part of the legal description of the property otherwise
 300 set forth in the instrument and may not be used as a substitute

HB 1419

2023

301 for the legal description required by this section.

302 Section 7. Paragraph (c) of subsection (1) of section
303 695.26, Florida Statutes, is amended to read:

304 695.26 Requirements for recording instruments affecting
305 real property.—

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

310 (c) The name of each witness to the instrument is legibly
311 printed, typewritten, or stamped upon such instrument
312 immediately beneath the signature of such witness and the post-
313 office address of each such person is legibly printed,
314 typewritten, or stamped upon such instrument;

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