

FinCEN's New Residential Real Estate Reporting Rule: What Sullivan County Practitioners Need to Know

Beginning March 1, 2026, residential real estate practice across the country—including here in Sullivan County—will enter a new regulatory era. The Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Treasury Department, has finalized a rule requiring the reporting of certain *non-financed* transfers of 1–4 family residential real estate. These requirements apply to all states and U.S. territories, with no minimum dollar threshold. The purpose is clear: to combat money laundering, increase transparency, and identify beneficial owners involved in opaque real estate transactions.

What Transactions Are Covered?

Under the new rule, a transaction becomes “reportable” when all three of the following elements are present:

1. Non-financed Transfer – A cash purchase or financing provided by a lender not subject to AML/NMLS requirements, such as private lenders, certain LLC-affiliated lenders, or family members.
2. Transferee Is an Entity or Trust – Including LLCs, corporations, partnerships, estates, and statutory trusts.
3. Residential Property (1–4 Family) – Including condos, co-ops, and residentially-zoned vacant land where a buyer intends to build.

These rules apply based on closing date. Any transaction closing on or after March 1, 2026 may fall under the reporting mandate—even if the contract was signed earlier.

What Information Must Be Reported?

The settlement agent (or the party highest in FinCEN's “reporting cascade”) must report:

- Full details of the transferee entity or trust, including beneficial owner identification;
- Seller information;
- Property details;
- Banking and source-of-funds information for the buyer.

Importantly, agents may rely on a “reasonable reliance” standard, but if a party refuses to provide required information, the agent should not close the transaction. Civil and criminal penalties may apply for noncompliance.

Key Exceptions

Not all conveyances are reportable. FinCEN has exempted:

- Transfers by court order;
- Transfers under a divorce decree;

- Certain estate-related transfers, including from an estate to an heir;
- Grants, revocations, or terminations of easements.

However, subsequent transfers—such as an heir immediately deeding property into an LLC—*may* become reportable.

Practical Impact on Attorneys and Title Agents

FinCEN anticipates that the new rule will require substantial diligence from settlement professionals. The American Land Title Association (ALTA) has created standardized buyer and seller information forms to aid compliance, and practitioners should expect a shift in workflow to address:

- Verification of entity/beneficial ownership;
- Documentation of non-financed transactions;
- Collection of banking details and source-of-funds information;
- Determination of who in the “reporting cascade” is responsible for filing.

A report must be filed no later than:

- The last day of the month after the month of closing, or
- 30 days after the closing—whichever comes first.

Compliance Matters

Failure to timely comply is *not optional*. FinCEN outlines potential:

- Civil penalties up to \$25,000 per day;
- Criminal penalties up to \$250,000 and/or imprisonment;
- Additional penalties for structuring or willful violations.

Best practices suggested in the deck include developing an internal AML program, ongoing staff training, and maintaining familiarity with emerging FinCEN FAQs and ALTA guidance as the implementation deadline approaches.

Conclusion

The new FinCEN rule represents one of the most significant regulatory changes to residential real estate practice in decades. While the reporting burden will fall largely on title agents and settlement professionals, attorneys must be prepared to advise clients—particularly those engaging in entity-based purchases or family financing—that enhanced disclosure will soon become mandatory.

The Sullivan County Bar Association will continue to monitor guidance as the effective date approaches and will keep the membership informed of any developments.