

# Federal Law Update: Washington Whirlwind, Keeping Agents Up-To-Date

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# Hot Topics on our Agenda



- FinCEN Residential Real Estate Rule, effective **December 1, 2025**
- Corporate Transparency Act
- SECURE Notarization Act
- Changes to RESPA Enforcement
- Federal Legislation Changes Impact State Law
  - Limits on real property purchases by foreign nationals
  - Taxation
  - Environmental Legislation, Affordable Housing, Return to Work Executive Orders and DEI Changes
- Anticipated Federal Policy Changes
  - Immigration Policy Changes
  - Federal Agency Staff Reductions
  - Administration Policy Changes: CFPB, FHFA, IRS and SEC



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# FinCEN Residential Real Estate Rule

Effective December 1, 2025



[FincenRealEstateReport.com](https://FincenRealEstateReport.com)

**Deadline Checker**



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# Special Thanks

The American Land Title Association (ALTA) has been active in lobbying Congress and FinCEN to make certain compliance with the new RRER is seamless for all our agents and their customers.

ALTA developed much of the research and educational resources relied upon in creating the FinCEN portion of this program. ALTA has graciously shared their materials with the title and real estate industry to ensure education of all impacted stakeholders, consumers and industry professionals.



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# Foundation for FinCEN

- Financial Crimes Enforcement Network, created in 1994 by Congress as part of the U.S. Treasury Department
- **Mission:** *“...to safeguard the financial system from illicit use, combat money laundering and its related crimes including terrorism, and promote national security through the strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence.”*
- Federal legislation starting with the Bank Secrecy Act (1970) and landing on the Patriot Act (2002) and its anti-money laundering rules



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# International Collaboration to Stop Money Laundering

- The Financial Action Task Force (FATF) is the global money laundering and terrorist financing watchdog.
  - Sets international standards to go after illicit funds linked to drugs trafficking, the illicit arms trade, cyber fraud and other serious crimes.
- International Criminal Police Organization (INTERPOL) facilitates police cooperation and criminal investigations
  - Focused on cross border investigations related to cyber-crime and money laundering

## Data proves success:

- 86% of closed cases use BSA data as reported by the Organized Crime Drug Enforcement Task Force (OCDETF)
- 27% of investigations involved money laundering through real estate purchases
- 7% of GTO filings involved subjects in an ongoing FBI investigation where a Suspicious Activity Report (SAR) was already on file with FinCEN or other federal law enforcement agency



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# The Who, What, When and How of the new RRER

- **What is a Reportable Transaction, 31 CFR §1031.320(b)?**

- A reportable transfer is a non-financed transfer to a transferee entity or transferee trust of an ownership interest in residential real property.

- **4 Critical Questions:**

1. Is this residential real property?
2. Is the Transferee a “Transferee Entity” or a “Transferee Trust”?
3. Is the transfer “non-financed”?
4. Is this transaction otherwise exempt?
  - ▶ Entity or Trust Exempt?
  - ▶ Transaction Exempt?



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# What is Residential Real Property Under the RRER?

- Residential real estate in all 50 states, D.C., Puerto Rico, overseas U.S. territories and Indian lands
  - 1-4 family residential structures
  - Vacant land on which the transferee intends to build a 1-4 family residential structure
  - Unit designed for 1-4 families
  - Shares in a cooperative housing corporation
- Caveat – Transaction may be reportable if the property is mixed-use, including a single-family residence above a commercial enterprise
- Tips to Identify “residential real property”



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# Transferee Entity or Trust and Exemptions

- Is the Transferee a “Transferee Entity” or “Transferee Trust”?
  - Transferee entity - generally any person other than a transferee trust or individual, including Corps, LLCs, Partnerships
  - Transferee trust - is any arrangement where a person places assets under the control of a trustee for the benefit of one or more persons
- Certain entities and trusts may be exempt from reporting



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# Transferee Entity Exemptions

- Securities reporting issuer
- Governmental authority
- Bank
- Credit union
- Depository institution holding company
- Money service business
- Broker or dealer in securities
- Securities exchange or clearing agency
- Exchange Act registered entity
- Insurance company

- State-licensed insurance producer
- Commodity Exchange
- Public utility defined
- Financial market utility
- Investment company

ALL as defined in 31  
CFR 1010.380(c)(2) and  
15 U.S.C. 80a-3(a)

**EXEMPT**



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# Transferee Trust Exemptions

- A trust that is a securities reporting issuer defined in 31 CFR 1010.380(c)(2)(i)
- A trust in which the trustee is a securities reporting issuer defined in 31 CFR 1010.380(c)(2)(i)
- A statutory trust - defined as any trust created or authorized under the Uniform Statutory Trust Entity Act or as enacted by a State
- Estate planning trust\* where (1) the transfer is for no consideration and (2) the transferor/seller (and/or their spouse) is the also the settlor or grantor of the trust

**EXEMPT**



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# Is this a “Non-Financed” Transaction?

- “Non-financed transfer” means a transfer that does not involve an extension of credit to all transferees that is:
  - (i) Secured by the transferred residential real property; and
  - (ii) Extended by a financial institution that has both an obligation to maintain an anti-money laundering program and an obligation to report suspicious transactions
    - 31 CFR §1031.320(n)(5)
- If the transaction is non-financed, then it must be reported under the RRER.
  - This reporting obligation is triggered regardless of the dollar amount of the transaction; even zero-dollar transaction needs to be reported.
- Non-institutional lender transactions need to be reported.
  - Cash purchases but ALSO hard money lenders, private financing, Seller financing and even familial loans and gifts are reportable under the RRER.



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# Transaction Otherwise Exempt

- |   |   |
|---|---|
| <ul style="list-style-type: none"><li>• Grant, transfer, or revocation of an easement</li><li>• Transfer resulting from the death of an owner of residential real property</li><li>• Transfer incident to divorce or dissolution of a marriage</li></ul> <p><i>31 CFR §1031.320(b)(2)</i></p> | <ul style="list-style-type: none"><li>• A transfer to a bankruptcy estate</li><li>• A transfer supervised by a court in the United States</li><li>• Transfer to a qualified intermediary for purposes of 26 CFR 1.1031(k)-1</li><li>• Transfer for which there is no reporting person</li></ul> |
|---|---|



**EXEMPT**



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# Who Must Report?

## OPTION 1: Cascading Reporting Order

- First choice: The person who is listed as the settlement agent on a settlement statement
- Second choice: The person who prepares the settlement statement
- Third choice: The person who files the deed for recordation
- Fourth choice: The person who issues the owner's title insurance policy
- Fifth choice: The person who disburses the greatest amount of funds
- Sixth choice: The person who did a title examination
- Final choice: The person who prepares the deed



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# Who Must Report?

## OPTION 2: Written Agreement between Cascading People

If more than 1 reporting person per Cascading Order, then the cascading persons can enter into a written “Designation Agreement” which shall include:

- Date of the agreement
  - Name and address of the transferor
  - Name and address of the transferee entity/transferee trust
  - Information identifying transferred residential real property
  - Name and address of the person designated through the agreement as the reporting person
  - Name and address of all other parties to the agreement
- No blanket Designation Agreements are permissible. A separate written Designation Agreement is required for each reportable transfer. **Must be retained for 5 years.**

**Agent Alert: Anyone offering to Report who is not a person identified in the reporting cascade will NOT relieve the reporting person of their responsibility.**



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# What Data Needs to be Collected and Reported?

- **Information about:**

- Reporting Person (Reporting Cascade or Designation Agreement)
- Transferee (entity or trust)
- Transferee's "beneficial owners" and signing/controlling individuals
- Transferor
- Property transferred- Address, closing date, purchase price
- Payments made by or on behalf of Transferee
- Hard money, private and other similar loans



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# What Data Needs to be Collected and Reported?

- Reporting Person (Cascade or Designation Agreement)
  - Name
  - Category of reporting person
  - Address - No P.O. addresses permitted 31 CFR §1031.320(d)
- Property transferred
  - Street address, if any
  - Legal description, such as the section, lot/block, or metes and bounds
  - Date of closing 31 CFR §1031.320(g)



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# What Data Needs to be Collected and Reported?

## Transferee Entity

- Full legal name;
- Trade name or “doing business as” name, if any;
- Complete current address consisting of:
  - The street address that is the transferee entity’s principal place of business; and
  - If not in the US, the street address of the primary location in the United States where the transferee entity conducts business, if any; and
- Unique identifying number
  - The Internal Revenue Service Taxpayer Identification Number (IRS TIN)
  - If no IRS TIN, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or
  - If no IRS TIN or foreign TIN, an entity registration number issued by a foreign jurisdiction and the name of such jurisdiction
- If Transferee Beneficial Owners include an entity – Peel back the onion to a human being

31 CFR §1031.320(e)



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# What Data Needs to be Collected and Reported?

## Transferee Trust

- Full legal name;
- Date the trust instrument was created;
- Unique identifying number
  - IRS TIN, or
  - If no IRS TIN, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction
- Whether the Trust is revocable
- If Beneficiaries of the Trust are entities – Peel back the onion to a human being



31 CFR §1031.320(e)



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# What Data Needs to be Collected and Reported?

## Transferee's Beneficial Owners and Signing Individuals

- Full legal name;
- Date of birth;
- Current residential street address (no P.O. Boxes);
- Citizenship; and
- Unique identifying number consisting of:
  - IRS TIN; or
  - Where no IRS TIN, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or
  - If no IRS TIN or foreign TIN, the unique identifying number and the issuing jurisdiction from a non-expired passport issued by a foreign government
- For signing individual – description of the capacity of the signing individual
- If Transferor's Beneficial Owner is an entity – Peel back the onion to a human being



31 CFR §1031.320(e)



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# What Data Needs to be Collected and Reported?

## Who are the Transferee's Beneficial Owners and signing individuals?

- Each individual who exercises substantial control over the transferee entity including executive officer or senior manager e.g.
  - Chief Executive Officer
  - Chief Financial Officer
  - Chief Operating Officer
  - Managing Member
  - General Partner
  - President
  - Vice President
  - Treasurer
- As defined in 31 CFR 1010.380(d)(1).
- Each individual who, on the date of closing, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the transferee entity.  
Each individual who expects to sign documents on behalf of the transferee entity.



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# What Data Needs to be Collected and Reported?

## Who are “Beneficial Owners” for Transferee Trust

- An individual who is a trustee of the transferee trust
  - An individual other than a trustee with the authority to dispose of transferee trust assets
  - A beneficiary who is the sole permissible recipient of income and principal from the transferee trust or who has the right to demand a distribution of, or withdraw, substantially all of the assets from the transferee trust
  - A grantor or settlor who has the right to revoke the transferee trust or otherwise withdraw the assets of the transferee trust
  - A beneficial owner of a legal entity or trust that is a trustee or the transferee trust
- A beneficial owner of a legal entity or trust with authority to dispose of transferee trust assets in a manner other than as a trustee of a transferee trust
  - A beneficial owner of a legal entity or trust that is the sole permissible recipient of income and principal from the transferee trust or who has the right to demand a distribution of, or withdraw, substantially all of the assets from the transferee trust
  - A beneficial owner of legal entity or trust that is a grantor or settlor with the right to revoke the transferee trust or otherwise withdraw the assets of the transferee trust
  - An individual who expects to sign documents on behalf of the transferee trust



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# What Data Needs to be Collected and Reported?

## Transferor/Seller

- Full legal name;
- Date of birth (Individual only);
- Current residential street address;
- Citizenship (Individual only); and
- Unique identifying number consisting of:
  - IRS TIN or EIN; or
  - Where no IRS TIN, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or
  - If no IRS TIN or foreign TIN, the unique identifying number and the issuing jurisdiction from a non-expired passport issued by a foreign government

31 CFR §1031.320(f)



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# What Data Needs to be Collected and Reported?

## Payments on Behalf of the Transferee/Buyer

- The amount of the payment;
- The method by which the payment was made;
- If the payment was paid from an account held at a financial institution, the name of the financial institution and the account number;
- The name of the payor on any wire, check, or other type of payment if the payor is not the transferee entity or transferee trust;
- Total consideration paid or to be paid by the transferee; and
- Total consideration paid by or to be paid by all transferees regarding the reportable transfer.

31 CFR §1031.320(h)



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# What Data Needs to be Collected and Reported?

## Hard money, private and other similar loans

- The reporting person shall report whether the reportable transfer involved credit extended by a person that is not a financial institution with an obligation to maintain an anti-money laundering program and an obligation to report suspicious transactions under the RRER.
- Includes hard money loans, familial loans, and seller financing

31 CFR §1031.320(i)



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# Timing to File FinCEN Report

- Report Due the later of:
  - Final day of the following month after which a closing took place, or
  - 30 days after the date of the closing
- FinCEN believes that a longer period would adversely impact the accuracy and utility of the reports for law enforcement.

31 CFR 1031.320(k)(3)



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# Clicking Submit to FinCEN

- **FinCEN's Proposed collection form:**

- FinCEN's proposed collection form has actually been revised slightly as submitted to Office of Management and Budget (OMB) for review. OMB has to give their final approval before FinCEN's report form can be finalized.
- Link to Version submitted to OMB in materials.
- **111 distinct fields on the Form**
- FinCEN expects that approximately 60% of fields will need to be completed per report



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# Why Should We Report? It's the Law

## CIVIL

***Negligent violations*** - civil penalty of not more than \$1,394 for each violation, and an additional civil money penalty of up to \$108,489 for a pattern of negligent activity.

***Willful violations*** - not more than the greater of the amount involved in the transaction (not to exceed \$278,937) or \$69,733.30

## CRIMINAL

***Willful violations*** - Term of imprisonment of not more than five years or a criminal fine of not more than \$250,000, or both.



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# Potential RRER Changes

- Litigation pending on the RRER
  - Flowers Title Companies LLC v. Department of Treasury. U.S. District Court Eastern District of Texas Case No. 25-cv-00127.
  - Fidelity National Financial Inc. v. U.S. Dept of Treasury, Scott Bessent (Secretary of U.S. Dept of Treasury) and Andrew Gacki (Director of FinCEN); U.S. District Court Middle District of Florida Case No. 25-cv-00554.
  - Expedited briefing schedules, both cases should have Summary Judgment Rulings by November, 2025.
- Lobbying efforts in Congress to delay or scale back impact of RRER.



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# Key Takeaways on FinCEN RRER

- ALTA developed Buyer and Seller Data Collections Forms
- Full compliance not achievable, now what?
  - Partial reporting?
  - Suspicious Activity Reports
- FR/BAR Contract Committee drafting contract language giving notice of FinCEN RRER obligations
- Alliant National Commitments – No Schedule B-I requirement on RRER Reporting
- Underwriter Reporting Support ends with GTOs
- GTOs going away
  - Expect another GTO in October 2025, extend through December 1, 2025
  - Retain all documents under prior GTOs for 5 years through November 30, 2030
- **PREPARE NOW**
  - Establish BSA E-Filing and Login.gov accounts now.



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# National Webinar on FinCEN Reporting Requirements

## Two Live Webinars:

Tuesday, September 23, 2025 at 1 pm ET

Thursday, October 2, 2025 at 1 pm ET

**Cost:** No charge

**PLEASE JOIN US TO LEARN EVEN MORE ABOUT FinCEN RRER!**



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# Corporate Transparency Act

Rolled-back Enforcement- Good Idea?



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# Corporate Transparency Act

## H. R. 6395—1217, Title LXIV—Establishing Beneficial Ownership Information Reporting Requirements

- The Corporate Transparency Act (CTA) is a U.S. law enacted in 2021 to combat illicit financial activities by requiring certain companies to report their beneficial ownership information to the FinCEN.
- Significant piece of legislation aimed at increasing transparency in business ownership and combating illicit financial activities.
- Could CTA have made RRER unnecessary?



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# Corporate Transparency Act

- On March 2, 2025, Treasury Department announced that it will not enforce any CTA based penalties or fines associated with the beneficial ownership information reporting rule against U.S. citizens or domestic reporting companies or their beneficial owners.
  - Compliance and reporting remain in place for foreign entities.
- Treasury Department currently engaged in proposed rulemaking that will narrow the scope of the CTA to foreign, non-U.S. reporting companies only.
- Could the CTA have prevented the need for the new RRER?
  - Under the Act, entities register once and secure a CTA entity number which could then have been used in real property transactions in lieu of the required reporting under the RRER have already discussed.



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# Corporate Transparency Act

- Reporting Companies: The CTA defines "reporting companies" as entities like corporations, limited liability companies (LLCs), and other entities created or registered to do business in the U.S.
- Beneficial Owners: A "beneficial owner" is defined as anyone who directly or indirectly owns or controls at least 25% of the ownership interests of the reporting company or exercises substantial control over it.
- Reporting Requirements: Reporting companies must submit a report to FinCEN identifying:
  - Beneficial Owners: This includes their full legal name, date of birth, residential address, and a unique identifying number from an acceptable identification document (like a passport or driver's license).
- Company Applicants: Must also be disclosed, individuals who filed the documents that created or registered the company.



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# Corporate Transparency Act

- Exemptions: The CTA provides for 23 categories of exempt entities, including large operating companies, investment companies registered with the SEC, and certain tax-exempt entities.
- Penalties for Non-Compliance: Failure to comply with the reporting requirements can result in significant penalties, including civil penalties of up to \$500 per day and criminal penalties of up to two years imprisonment.
- Purpose: The main goal of the CTA is to enhance transparency in business ownership to help law enforcement and national security agencies combat illicit activities like money laundering, terrorism financing, and other financial crimes. ***SOUND FAMILIAR?***



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# Corporate Transparency Act

Through a one-time registration process, entities would only share their CTA number with title agents - alternative to RRER.

Query: Could this really be effective? One time registration, how can FinCEN track beneficial ownership information as it changes?



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# SECURE Notarization Act

Taking RON Notarization Nationwide



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# SECURE Notarization Act 2025

- As of February 2025, **45 states and the District of Columbia have permanent RON laws**; effort is to have uniform rules across all states.
- S. 1561 (119th Congress): Introduced in the Senate on May 1, 2025. Prior bills passed by the House in 2023, H.B. 3962. Referred to the Senate Committee on the Judiciary, S.B. 1625
- The Bill proposes to authorize notaries to perform electronic and remote notarizations affecting interstate commerce.
- It would require federal courts and states to recognize notarizations from other states, especially those related to public acts, records, or judicial proceedings.
- According to the Bill's sponsors, U.S. Sens. Mark R. Warner (D-VA) and Kevin Cramer (R-ND):
  - *“Remote notarizations have proven to be a safe and convenient way for individuals to complete essential services such as executing wills, completing financial documents, and buying or selling a home online. This legislation would continue to modernize this system by permitting nationwide use of Remote Online Notarization to complete important documents.”*



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# SECURE Notarization Act 2025

- The SECURE Notarization Act would make the mortgage closing process more convenient for consumers by creating federal minimum standards to allow notaries in all states to perform remote online notarization (RON) transactions.
- Interstate Recognition: The bill seeks to ensure that notarizations performed in one state are recognized in other states, particularly those involving interstate commerce.
- Minimum Standards:
  - It grants authority to establish minimum standards for electronic and remote notarizations, including technical requirements like video and audio recordings.
  - The SECURE Notarization Act requires tamper-evident technology and fraud prevention measures through the use of multifactor authentication.



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# SECURE Notarization Act 2025

- Status of Bill: The Bill is endorsed by American Land Title Association (ALTA), Mortgage Bankers Association (MBA), National Association of REALTORS (NAR), and American Council of Life Insurers (ACLI).
- Similar bill introduced in 2023 and did not get to a vote in Senate.
- **Time to lobby your representatives in D.C.**
- [GovTrack.us](https://www.govtrack.us) gives it a 5% chance of passing.



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# Changes to RESPA Enforcement

CFPB's New Role



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# CFPB and RESPA

- The CFPB has been significantly reduced in its ability to enforce RESPA and TILA lending violations. What does that mean for RESPA enforcement actions?
  - Enforcement actions greatly curtailed
  - CFPB ceasing PACE Lien complaints
  - Early end to CFPB redlining in lending consent order due to lack of enforcement personnel
  - CFPB Lawsuit to exclude medical debts from loan underwriting dismissed
  - CFPB has rescinded mortgage origination guidelines aimed at avoiding discrimination in lending
  - CFPB has withdrawn its notice of proposed rulemaking designed to prevent harmful information-sharing practices by data brokers raising concerns about cyber security
  - CFPB lawsuit against PayPal for credit disclosures dismissed
  - CFPB lawsuit against bank for deceptive marketing of credit card services dismissed
  - CFPB Blocks State Enforcement of Federal Consumer Laws
- What does this mean for our industry?



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# RESPA Enforcement

- **Problem with this change –**

- State enforcement will take over and will likely result in inconsistent enforcement; challenge as CFPB has withdrawn guidance from the Biden administration that had expanded states' rights, allowing individual states to broadly enforce violations of federal consumer protection laws.
- Consumers will need to file personal actions – very costly
- Class actions will likely result in crippling judgments thereby reducing competitiveness in providers
- In recent case, court refused to certify class so will we see hundreds of individually filed actions?



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# CFPB Steps Back

- **New enforcement policy-** CFPB will refer criminal enforcement of consumer financial laws to DOJ
- State Attorneys General are suing CFPB - \$4.2 mm redress funds to VA borrowers
  - \$360 mm of consumer moneys from violators being withheld
  - Numerous consent orders already litigated are being terminated by CFPB.
- Regulations to help underserved communities get home loans have been withdrawn
- Will this impact potential first time buyers?



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# Federal Policy Impacts to State Law

Will States follow the Feds' Lead?



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# Federal Policy Impacts State Law

- **Immigration policy limits foreign national purchasing real estate**
- Multiple states have enacted laws prohibiting foreign nationals from purchasing real estate in “sensitive locations.”
- Florida’s Version, F.S. § 692.203 (2024) - Florida law, specifically Senate Bill 264, restricts certain foreign individuals and entities from owning or acquiring real property in Florida. These restrictions primarily target those from "foreign countries of concern" and those with controlling interests in such entities.
  - The law also places limitations on landownership near military installations and critical infrastructure.
    - **Title agents:** At the time of purchase, a buyer of the real property that is on or within 10 miles of any military installation or critical infrastructure facility in this state must provide an affidavit signed under penalty of perjury attesting that the buyer is:
      - Not a foreign principal or not a foreign principal prohibited from purchasing the subject real property; and
      - In compliance with the requirements of this section.
    - The failure to obtain or maintain the affidavit does not:
      - Affect the title or insurability of the title for the real property; or
      - Subject the closing agent to civil or criminal liability, unless the closing agent has actual knowledge that the transaction will result in a violation of this section.



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# Federal Policy Impacts State Law

- DEI- Federal pullback from DEI initiatives will impact various federal agencies, their staffing levels and their department practices as well as support afforded our state agencies.
  - As yet, we are not aware of the full extent of these changes as there is substantial litigation about the constitutionality of these actions at the federal level and then trickling down to state actions.
  - Fair Lending rules being pulled back.
- Immigration policy – What happens when titleholder is foreign national and is deported?
  - Travel bans, expansion to disfavored states – Impact on property held by those foreign nationals or even government entities.
  - How will various Federal agencies and enforcement agencies use forfeiture ability to take these properties?
  - State impact for real property left without a resident owner; code enforcement lien concerns
- Federal Agency Staff reductions –
  - Impact to responsiveness of Federal agencies- IRS lien releases, FIRPTA, Estate Tax clearance letters
  - Example: Delay in releasing FinCEN reporting form for RRER effective **December 1, 2025**
- **States take lead in enforcement – MV Realty successful example**



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# Federal Policy Impacts State Law

- **FHFA and GSEs, change to loan underwriting**
  - Count crypto assets in loan underwriting
    - Volatile asset
  - Count medical debt as liabilities
    - Won't this impact affordability, reduce first time homebuyers?
- FHFA considering rescission of **Fair Lending Rule** – predatory lending practices may return so state law will need to respond.
  - Florida may need more robust Consumer Protection laws.
- HUD considering dropping major housing discrimination cases
  - Can State Attorneys General pick up all this litigation to protect consumers?
- Federal Reserve considering rescission of CRA Rule – States and Counties may have to step in?
- State AGs currently redefining RESPA compliance matters on Affiliated Business Rules



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# Federal Policy Impacts State Law

- Current Administration Policy Changes
  - CFPB
  - FHFA and FHA
  - IRS enforcement
  - Securities and Exchange Commission enforcement actions
- Can state attorney general react to prosecute violations of these federal laws?
  - Evenly applied?
    - Red v. Blue States
    - Big States v. Small States



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# National Policy Impacts in the News

Policy Changes



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# Federal Policy Impacts

- **Tax Policy**

- Foreign National Tax Liability Federal Legislation - HR 3588, also cited as the Real Estate Reciprocity Act, was filed on May 23, 2025.
  - If passed, Bill would require all real estate purchases by non-citizens to be reported to the IRS, as well as impose a tax on such purchases.
  - Look for further expansion of these statutory prohibitions
- Other taxation changes addressed in the recently passed tax bill include like-kind exchanges, capital gains taxes, low-income housing tax credits increased, and ordinary income rates.
  - Cleared up some inconsistencies and extended policies so investors can rely on current tax rules for long term investments
- States trying to roll back taxes
  - How do we reconcile with Governor DeSantis' desire to roll back FL property taxes?
- Privatization plans
  - Include Fannie Mae and Freddie Mac; IPO under consideration
  - Estimated value \$500 billion or more!



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# Federal Policy Impacts

- Environmental Legislation - New environmental regulations, such as those concerning PFAS, could impact property assessments and lead to increased liability for property owners.
  - Change in energy efficiency standard by HUD
  - Will this reverse efforts at energy efficient housing; alternative building materials?
- Affordable Housing: These have been under consideration but the change in Administration may slow these changes. We were expecting legislation focused on turning distressed commercial properties into affordable housing, as well as initiatives promoting first-generation homeownership and rural housing, could reshape the housing landscape.
  - Reduction in tax incentives for first-time home buyers
  - Tariffs on building supplies may increase home costs.
  - May be countered by affordable housing tax incentives
- VA Loan Program Curtailed – VA cancelled program to allow foreclosure moratoriums. Scrambling to develop alternative.
- Homebuyers Privacy Protection Act – H.B. 2808 This legislation when signed would put an end to the sale of trigger leads — a practice that has long frustrated originators and confused borrowers — by prohibiting credit bureaus from selling a consumer’s mortgage-related credit inquiry to competitors without explicit consent.



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# Federal Policy Impacts

- AOLs – These are accepted under the Fannie and Freddie Loan Guidelines
  - State law conflicts
- Title Waiver Program- still moving forward on refinance transactions with Fannie Mae
- FHFA Programs – Several underwriters on board now with expedited title review programs
- As Federal Agencies roll back, will the impact of these pilot programs be curtailed?



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# Federal Policy Impacts

- **Build More Housing Near Transit Act:** Bipartisan legislation led by Representatives Peters (D-CA) and Moore (R-UT) (H.R. 4576) and Senators Schatz (D-HI) and Banks (R-IN) (S. 2363) would direct the Department of Transportation (DOT) to incentivize local governments to promote housing development and regional growth in and around the transit corridors.
- **Housing Supply Frameworks Act:** Bipartisan legislation sponsored by Representatives Flood (R-NE) and Pettersen (D-CO) (H.R. 2840) and Senators Blunt Rochester (D-DE), Crapo (R-ID), Fetterman (D-PA), and Tillis (R-NC) (S. 1299) would direct HUD to publish guidelines and best practices for State zoning and local zoning frameworks.
- **Accelerating Home Building Act of 2025:** Senators Blunt Rochester (D-DE) and Moreno (R-OH) have introduced legislation (S. 2361) to overcome local regulatory cost burdens to affordable housing development by encouraging the use of pattern books of pre-reviewed construction designs. Specifically, the bill would establish a HUD-administered grant program to fund the creation of pattern books with a focus on missing middle and infill construction and provide set asides for rural communities and prioritizes high opportunity areas and localities working to reduce barriers to housing development.
- **HOME Investment Partnerships Reauthorization and Improvement Act of 2025:** Legislation introduced by Senator Cortez Masto (D-NV) (S. 948) and Representative Beatty (D-OH) (H.R. 2031) would reauthorize the HOME Investment Partnerships Program, increase the authorized funding level for the program to \$5 billion, and make several needed program improvements.
- **Housing Affordability Act:** Bipartisan legislation (S. 1527) introduced by Senators Gallego (D-AZ) and McCormick (R-PA) would increase the per-unit loan limits on certain FHA multifamily insured properties.
- **Heirs Estate Inheritance Resolution and Succession (HEIRS) Act (H.R. 1640)-** Bipartisan effort seeking to provide resources, technical assistance, and legal support to resolve clouded title issues that often prevent property transfer, access to federal housing programs, and generational wealth building.



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# Federal Policy Impacts

- **Choice in Affordable Housing Act of 2025:** Bipartisan legislation introduced by Senators Coons (D-DE) and Cramer (R-ND) (S. 890) and Representatives Cleaver (D-MO) and Lawler (R-NY) (H.R. 1981) would address many overlapping and redundant programmatic procedures that have deterred owners and operators from participating in the Section 8 Housing Choice Voucher Program. The bill enjoys broad support from both housing advocates and housing providers.
- **Identifying Regulatory Barriers to Housing Supply Act:** Bipartisan legislation sponsored by Senators Young (R-IN) and Schatz (D-HI) (S. 2416) and Representatives Flood (R-NE) and Pettersen (D-CO) (H.R. 4659) would help eliminate discriminatory land use policies and remove barriers that depress production of housing in the United States. By requiring Community Development Block Grant (CDBG) recipients to report periodically on the extent to which they are removing discriminatory land use policies, and promoting inclusive and affordable housing, the *Identifying Regulatory Barriers to Housing Act* will increase transparency and encourage more thoughtful and inclusive development practices.
- **HOME Reform Act of 2025:** Representatives Flood (R-NE) and Cleaver (D-MO) have released a draft HOME Investment Partnership program (HOME) bill that would expand income eligibility, expand eligible uses of funds to include infrastructure and reduce Davis-Bacon, National Environmental Policy Act (NEPA) and Build America, Buy American Act (BABA) requirements to speed and increase development of affordable housing.
- **TIFIA Reform:** The Transportation Infrastructure Finance and Innovation Act (TIFIA) provided the Department of Transportation (DOT) \$70 billion in below-market lending authority for, among other things, transit-oriented development, including for housing near public transit. TIFIA could be a significant tool to increase housing supply, but it currently requires transportation underwriting standards that are not applicable to housing development. TIFIA must be reformed to include housing underwriting standards to reach its full potential.
- **HUD Funding:** The T-HUD Appropriations bill provides critical funding for the development and operations of public /private affordable housing developments throughout the country. It is critical that HUD's programs, such as Housing Choice Vouchers, Project-Based Rental Assistance, and HOME get full funding in the Fiscal Year 2026 T-HUD appropriations bill to give the private sector confidence to invest in these critical resources.



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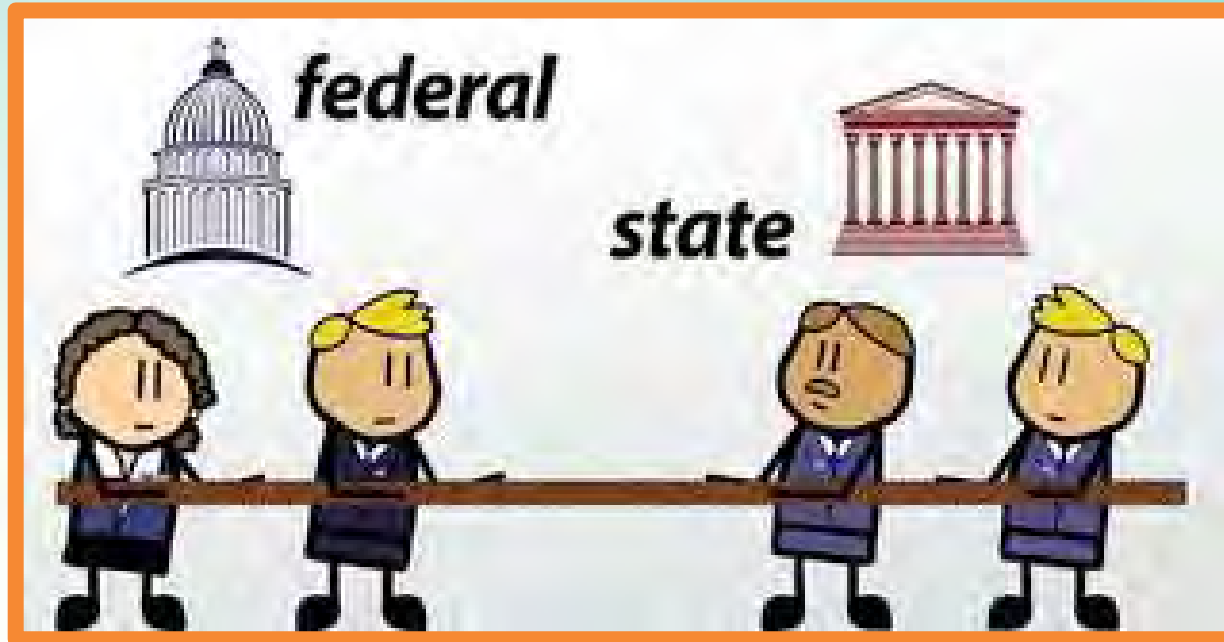
# Federal Policy Impacts

- **Electronic Benefit Transfer (EBT) for Rental Housing Vouchers:** Establish a pilot program converting Housing Choice Vouchers to an electronic benefit transfer program without HUD lease and inspection requirements to make HCV recipients indistinguishable from other renters while better combatting waste, fraud, and abuse.
- **Workforce Housing Tax Credit Act:** Bipartisan legislation introduced in the 118<sup>th</sup> Congress by Senators. Wyden (D-OR) and Sullivan (R-AK) (S. 3425) and Representatives. Panetta (D-CA) and Carey (R-OH) (H.R. 6686) would establish a new tax credit to produce affordable rental housing for households earning 100 percent or less of the area median income (AMI). The Workforce Housing Tax Credit Act, which is modeled on the successful Low-Income Housing Tax Credit, would address the housing shortage for individuals who comprise the very fabric of strong communities nationwide, including teachers, firefighters, nurses, and police officers whose wages are not keeping pace with costs.
- **Incentivize Conversion of Underutilized Commercial Properties:** Given the nation's shortage of affordable rental housing, many are considering turning unused and underutilized commercial real estate structures, including offices, hotels, and retail spaces into housing. Not only would such repurposing help address the nation's housing supply challenge, but it would also create jobs and boost local property tax revenues. Representatives Carey (D-OH) and Gomez (D-CA), joined by 29 other cosponsors, have introduced the *Revitalizing Downtowns and Main Streets Act* (H.R. 2410) that would provide a 20 percent tax credit to convert office buildings into affordable rental housing.
- **Enhance Opportunity Zones to Incentivize Rehabilitation of Housing Units:** The real estate industry is extremely grateful Congress permanently reauthorized Opportunity Zones in recently enacted tax legislation. While Opportunity Zones are beneficial for new multifamily development, developers may find it difficult to use Opportunity Zone benefits to rehabilitate existing properties.
  - To qualify for Opportunity Zone benefits for renovations, the basis of an existing asset must generally be doubled excluding land. However, beginning with second-round Opportunity Zones in rural areas, the basis increase necessary is reduced to 50 percent. Although property that is added to and improves an asset can count toward this threshold, doubling the basis can still be a high hurdle.
  - To promote the rehabilitation and preservation of multifamily housing in all Opportunity Zones nationwide, Congress should reduce the basis increase necessary to qualify a multifamily rehabilitation project for Opportunity Zone purposes to no higher than 50 percent. This step would maximize the ability of Opportunity Zones to address the nation's housing supply shortage



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# Thank You!

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