

The Illinois General Assembly (Public Act 104-382) authorizes County Recorders to protect owners of real property from fraudulent filings by establishing a process to review and refer to the circuit court documents suspected to be fraudulent. This process is outlined in the Fraud Referral and Review Process pursuant to Illinois Statute ([55 ILCS 5/3-5010.5](#)).

The Recorder shall use the following criteria, found in Illinois law ([55 ILCS 5/3-5010.5](#)), to consider whether a filing may be fraudulent and subject to review by the Circuit Court.

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

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

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

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

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

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

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

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

(9) whether the documents are Uniform Commercial Code filings referencing birth certificates or other private records that are not in compliance with Section 9-501 of the Uniform Commercial Code;

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

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

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

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

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

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

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

(17) whether the document is filed with the intent to harass or defraud the person identified in the record or any other person;

(18) whether the document is filed with the intent to harass or defraud any member of a governmental office, including, but not limited to, the recorder's office, local government offices,

the State of Illinois, or the Federal government; and

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

If the Recorder determines, after review by legal staff and counsel, that a deed or instrument that is recorded may be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property, the Recorder shall record a Notice of Referral, identifying the document, corresponding document number in question, and the date of determination.

The Recorder shall notify any parties within the reviewed document of his determination to seek review. The Recorder shall use county property tax records to identify and provide notice to the last owner of record by telephone, if available, and certified mail when a deed or instrument has been referred for review and determination.

Any person, entity, or legal representative within the reviewed document shall confirm in writing his or her belief that a document or documents are suspected to be fraudulent and may request that the Recorder refer the case for review to the Circuit Court. Upon request, the Recorder shall bring a case to the circuit court by filing a petition for review therein. Notice of the hearing shall be provided by the Recorder to the filer, or the party represented by the filer, of the suspected fraudulent document, and the last owner of record, as identified in the referral.

If clear and convincing evidence shows the document in question to be fraudulent, the circuit court shall rule the document to be fraudulent and the Recorder shall forward the judgment to all the parties identified in this subsection. Upon receiving notice of the judgment of fraud, the Recorder shall, within 5 (five) business days, record a new document that includes a copy of the judgment in front of the Notice of Referral that shall clearly state that the document in question has been found to be fraudulent and shall not be considered to affect the chain of title of the property in any way.

If the circuit court finds the document to be legitimate, the Recorder shall, within 5 (five) business days after receiving notice, record a copy of the judgment.

A decision by the circuit court shall not preclude the State's Attorney or the Sheriff from proceeding with a criminal investigation or criminal charges.

The Recorder shall send a notice, by regular mail, the order of the Circuit Court to all parties within the reviewed document.

Nothing in this Section precludes a private right of action by any party with an interest in the property affected by the review and referral, or the filer of the document or documents suspected to be fraudulent. Nothing in this Section requires a person or entity who may have had a fraudulent document or encumbrance filed against his or her property to use the fraud review and referral process created by this Section.

The Recorder shall retain any filing fees associated with filing a deed or instrument that is determined to be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property under this Section.

The Recorder shall provide public notice 90 days before the establishment of the fraud referral and review process authorized hereunder. The notice shall include a statement of the Recorder's intent to create a fraud referral and review process and shall be published in a newspaper of general circulation in the County and, if feasible, posted on the Recorder's website and at the Recorder's office.