

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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.

17 (c) Establishment and use of a fraud referral and review  
18 process. A recorder who establishes a fraud referral and review  
19 process under the provisions of this Section may use it to  
20 review deeds and instruments and refer any of them to an  
21 administrative law judge for review pursuant to subsection (g)  
22 of this Section that cause the recorder to reasonably believe  
23 that the filing may be fraudulent, unlawfully altered, or

1 intended to unlawfully cloud or transfer the title of any real  
2 property. The recorder may enter into an intergovernmental  
3 agreement with local law enforcement officials for the purposes  
4 of this referral and review. A recorder may request that the  
5 Secretary of the Department of Financial and Professional  
6 Regulation assist in reviewing possible fraudulent filings.  
7 Upon request, the Secretary, or his or her designee, shall  
8 assist in identifying the validity of filings. The recorder  
9 shall notify the Secretary when a document suspected to be  
10 fraudulent is discovered.

11 In counties with a population of less than 3 million, a  
12 recorder shall provide public notice 90 days before the  
13 establishment of the fraud referral and review process. The  
14 notice shall include a statement of the recorder's intent to  
15 create a fraud referral and review process and shall be  
16 published in a newspaper of general circulation in the county  
17 and, if feasible, posted on the recorder's website and at the  
18 recorder's office or offices.

19 In determining whether to refer a document to an  
20 administrative law judge for review, a recorder may take into  
21 consideration any of the following factors:

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

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

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

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

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

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

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

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

25           (9) whether the documents are Uniform Commercial Code  
26           filings referencing birth certificates or other private

1 records that are not in compliance with Section 9-501 of  
2 the Uniform Commercial Code;

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

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

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

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

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

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

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

25 (17) whether the document is filed with the intent to  
26 harass or defraud the person identified in the record or

1 any other person;

2 (18) whether the document is filed with the intent to  
3 harass or defraud any member of a governmental office,  
4 including, but not limited to, the recorder's office, local  
5 government offices, the State of Illinois, or the Federal  
6 government; and

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

11 (d) Determinations. If a recorder determines, after review  
12 by legal staff and counsel, that a deed or instrument that is  
13 recorded in the grantor's index or the grantee's index may be  
14 fraudulent, unlawfully altered, or intended to unlawfully  
15 cloud or transfer the title of any real property, he or she  
16 shall refer the deed or instrument to an administrative law  
17 judge for review pursuant to subsection (g) of this Section.  
18 The recorder shall record a Notice of Referral in the grantor's  
19 index or the grantee's index identifying the document,  
20 corresponding document number in question, and the date of  
21 referral. The recorder shall also notify the parties set forth  
22 in subsection (e) of this Section. The recorder may, at his or  
23 her discretion, notify law enforcement officials regarding a  
24 filing determined to be fraudulent, unlawfully altered, or  
25 intended to unlawfully cloud or transfer the title of any real  
26 property.

1       (e) Notice. The recorder shall use county property tax  
2 records to identify and provide notice to the last owner of  
3 record by telephone, if available, and certified mail both  
4 when: (1) a deed or instrument has been referred for review and  
5 determination; and (2) a final determination has been made  
6 regarding the deed or instrument. Notice, by mail, shall also  
7 be sent to the physical address of the property associated with  
8 the deed or instrument.

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

15       (g) Referral and review process. Prior to referral, the  
16 recorder shall notify the last owner of record of the document  
17 or documents suspected to be fraudulent. The person, entity, or  
18 legal representative thereof shall confirm in writing his or  
19 her belief that a document or documents are suspected to be  
20 fraudulent and may request that the recorder refer the case for  
21 review. Upon request, the recorder shall bring a case to its  
22 county department of administrative hearings and, within 10  
23 business days after receipt, an administrative law judge shall  
24 schedule a hearing to occur no later than 30 days after  
25 receiving the referral. The referral and case shall clearly  
26 identify the person, persons, or entity believed to be the last

1 true owner of record as the petitioner. Notice of the hearing  
2 shall be provided by the administrative law judge to the filer,  
3 or the party represented by the filer, of the suspected  
4 fraudulent document, the legal representative of the recorder  
5 of deeds who referred the case, and the last owner of record,  
6 as identified in the referral.

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

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

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

1 circuit court with jurisdiction.

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

10 (h) Fees. The recorder shall retain any filing fees  
11 associated with filing a deed or instrument that is determined  
12 to be fraudulent, unlawfully altered, or intended to unlawfully  
13 cloud or transfer the title of any real property under this  
14 Section.

15 (i) Liability. Neither a recorder nor any of his or her  
16 employees or agents shall be subject to personal liability by  
17 reason of any error or omission in the performance of any duty  
18 under this Section, except in case of willful or wanton  
19 conduct. Neither the recorder nor any of his or her employees  
20 shall incur liability for the referral or review, or failure to  
21 refer or review, a document or instrument under this Section.

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

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

26 Section 99. Effective date. This Act takes effect upon



1 becoming law.