

FinCEN's AML Regulations for Real Estate Transfers: A Burden on Small Businesses

The Anti-Money Laundering (AML) Regulations for Residential Real Estate Transfers ([31 CFR 1031.320](#)) requires title companies to report certain information about residential real estate transactions purchased with all cash or without institutional lender financing where at least one buyer/transferee is a non-natural person (i.e. trust, LLC, etc.), starting December 1, 2025. This is a nationwide expansion of the geographic targeting orders that some title companies have been complying with in certain jurisdictions since 2016.

PRIMARY CONCERNS:

Burden on Small Businesses

- This rule requires title companies to collect, report, and maintain sensitive information that goes far beyond what is typically required in a real estate transaction.
- The cost burden of this rule will be borne by companies that are predominantly small businesses. Over **90% of title companies are small businesses** - most with fewer than 5 full-time employees and less than \$1 million in revenue.
- FinCEN estimates the rule will require approximately 800,000 to 850,000 reports to be filed annually costing between \$400M and \$663M (\$472 - \$829 per transaction) each year.

Liability Costs

- Pursuant to the rule, title companies are required to retain sensitive non-public information for both clients and non-clients, making them a further target for bad actors attempting to access that information.
- This raises concerns about data privacy and increased expenses associated with security and legal needs, which will likely increase due to this regulation.

CLEAR BENEFIT UNKNOWN:

- The Treasury Department has determined the burden of collecting beneficial ownership information under the Corporate Transparency Act from domestic small businesses is undue. This residential real estate rule, however, maintains this burden for small title companies.
- FinCEN did not complete an estimate of the economic or national security benefits of adopting the Rule and instead asserted—without proper analysis—that the rule “will generate intangible benefits worth over \$500 million per year.”
- Almost all the real estate data requested under this rule is available through commercially available means.

WHAT CAN BE DONE?

Narrow the scope of these reporting requirements to lessen the burden on title companies by:

- Allowing title companies to collect an entity's FinCEN ID rather than full BOI and only report that information for those required to file BOI under Treasury's recently proposed rule, once finalized.
- Eliminating costly and invasive requirements to report payment data that is available to law enforcement through the financial institutions that facilitate wire transfers.
- Removing requirements for title companies to retain information collected for covered transactions.