

**May 5, 2026**

***FINCEN RESIDENTIAL REAL ESTATE REPORTING RULE VACATED***

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On March 1, 2026, the U.S. Treasury Department’s Financial Crimes Enforcement Network (FinCEN) implemented the Residential Real Estate (RRE) Reporting Rule. The rule affected many non-financed residential real estate transfers, including transfers involving trusts and LLCs, which are extremely common in estate and elder law planning. FinCEN adopted this rule to increase transparency in real estate transactions which the agency believed were frequently used to obscure ownership and facilitate money laundering or other illicit activity.

On March 19, 2026, the U.S. District Court for the Eastern District of Texas vacated the Residential Real Estate Reporting Rule in its entirety and held that it exceeds FinCEN’s authority under the Bank Secrecy Act. The plaintiff, Flowers Title Companies, LLC, challenged the Residential Real Estate Rule under the Administrative Procedure Act and argued that FinCEN lacked statutory authority to impose the reporting requirement.

The Court’s analysis focused on two provisions of the Bank Secrecy Act which FinCEN had invoked as granting authority to issue the Rule.

31 U.S.C. § 5318(g)(1) authorizes FinCEN to require financial institutions to report “any suspicious transaction relevant to a possible violation of law or regulation.” The court rejected FinCEN’s position that non-financed residential real estate transfers to trusts or entities are categorically “suspicious,” and noted that despite some history of individuals conducting such transactions for improper purposes, there remains many individuals with sufficient assets who purchase property without financing for legitimate purposes, such as tax planning, liability purposes and avoidance of interest.

31 U.S.C. § 5318(a)(2) authorizes FinCEN to require financial institutions to “maintain appropriate procedures, including the collection and reporting of certain information.” The court held that the Rule exceeded its statutory limit because it imposed direct reporting obligations rather than procedural requirements.

As a result of this decision, the Residential Real Estate Reporting Rule has been vacated nationwide and there is currently no reporting requirement. It is currently unknown whether

FinCEN will appeal the ruling, but attorneys and real estate practitioners should continue to monitor the matter to understand whether any reporting requirements will be reinstated.

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