

## **July 2025**

### **Ready or Not: Preparing for the FinCEN Final Rule**

As the December 1, 2025, effective date for FinCEN's Final Rule approaches, both the real estate industry and FinCEN have been actively preparing for its implementation. Our sponsor, Alliant National Title Insurance Company, provides a detailed look at these developments in their article, "[Ready or Not: Preparing for the FinCEN Final Rule](#)." Here are some key updates:

#### **What Has the Industry Been Up To?**

##### Legal Challenges:

- On April 14, 2025, East Texas Title filed a lawsuit arguing that the rule violates constitutional rights, including the Fourth Amendment and the separation of powers.
- On May 20, 2025, a national underwriter filed a similar lawsuit, claiming the rule exceeds FinCEN's statutory authority and imposes unreasonable burdens on businesses.
- ALTA has formally appealed to the Office of Management and Budget (OMB), asking for the rule to be rescinded unless changes are made to reduce its impact on small title companies.

##### Preparation Efforts:

- ALTA has created working groups to develop information collection forms to meet the rule's requirements, which include 111 distinct data fields.
- Training resources, such as webinars and a FinCEN Bootcamp, have been launched to help title agents and their partners prepare for compliance.

#### **What Has FinCEN Been Up To?**

In November 2024, FinCEN released a proposed ***draft report form*** to implement the Final Rule. This form outlines the extensive data fields required for compliance.

On June 5, 2025, FinCEN submitted the Real Estate Report (RER) information collection request to the ***OMB for review***. *"By law, an agency cannot collect information without displaying a valid OMB number, so this is another required step as FinCEN moves forward with its plans for a final report form."*

The public comment period remains open until July 7, 2025.

Read the full article from Alliant National Title Insurance Company [here](#).

## **June 2025**

ALTA's Title Agency Network (TAN) recently asked for our help in urging lawmakers to cosponsor Federal Bill H.R. 3206, the Protecting America's Property Rights Act, which was introduced in the House by Representatives Andrew Garbarino (R-NY) and Vicente Gonzalez (D-TX). This bipartisan bill would ensure all loans purchased by Fannie Mae and Freddie Mac are protected by a state-regulated product such as title insurance. If passed, this legislation would nullify the FHFA Title Acceptance Pilot and push unregulated alternatives out of the

marketplace. Any product that claims to do the work of title insurance should be regulated as such and play by the same rules! [View the Official Bill Text here.](#)

Your voice matters – [Click here](#) and urge your Member of Congress to cosponsor H.R. 3206 today!

## **May 2025**

**PLTA was key in advancing improvements to South Carolina Senate Bill 126 for the 2025–2026 session.** Building on the foundation of the 2023 SC Act 56, the bill strengthens protections for personal contact information, particularly for law enforcement officers and judges.

Thanks to PLTA's advocacy, the updated legislation now includes:

- Broader definitions of “personal contact information” for stronger protection.
- Clearer procedures for restricting personal data from public access.
- Secure sharing provisions for authorized parties, like title insurers and attorneys.
- A streamlined confidentiality request process, developed in coordination with the Office of Court Administration and the SC Criminal Justice Academy.
- A delayed effective date of January 1, 2026, to provide additional time for implementation.

Click here to read the new Act: [www.scstatehouse.gov/sess126\\_2025-2026/bills/126.htm](http://www.scstatehouse.gov/sess126_2025-2026/bills/126.htm).

This legislative success reflects PLTA's ongoing commitment to safeguarding sensitive information while supporting transparency and efficiency in South Carolina real estate transactions.



L-R: Erica Lybrand (Blair Cato), Rep. Ralph Norman, Dawn Watkins (PLTA), Samantha Stewart (ALTA)

**Our President-Elect and Legislative Chair, Dawn Watkins, attended the ALTA Advocacy Summit on May 5th-7th in Washington, DC, to represent the association.** Over 225 professionals from the title insurance sector gathered on Capitol Hill to engage with their local Senators, Representatives and their staff. Discussions highlighted title insurance's crucial role in securing homeownership, safeguarding property rights and preventing fraud.

This meeting coincided with the timely reintroduction of the bipartisan Protecting America's Property Rights Act (HR 3206) by U.S. Representatives Andrew Garbarino (R-NY) and Vicente Gonzalez (D-TX). This act mandates that all federally backed mortgages must be insured

by state-regulated products, such as title insurance.

The South Carolina delegation met with Rep. Ralph Norman and staff for Rep. Joe Wilson, Sen. Tim Scott and Sen. Lindsey Graham. During these meetings, we voiced concerns regarding FinCEN's anti-money laundering regulations concerning real estate transactions. Effective December 1, 2025, this rule requires real estate professionals to report and maintain records for specific non-financed residential property transfers to designated legal entities and trusts. We emphasized that the new regulation substantially burdens small businesses and raises liability issues related to data privacy and security. We encouraged legislators to engage with FinCEN to advocate for a reduction in the scope of the reporting requirements, aiming to alleviate the impact on title and settlement services companies.

We're proud to lead efforts that protect our community and strengthen our industry!

**Staying the Course Through Uncharted Waters** by Charles C. Cain, Esq. SVP-National Agency–FNF Family of Companies

In the first 100 days of the second Trump Administration, we have seen dramatic moves that have thrown into question the role of federal enforcement, particularly by the CFPB, as to a host of laws, including RESPA. Pending the outcome of litigation, the CFPB's staff was reduced to a mere 200 people from the thousands previously employed in offices nationwide. Some thought the Bureau itself might be shut down. However, Acting Director and OMB Director Vought has stated in court documents that the Bureau is not being shut down; it is being streamlined, and their mission is to focus more on their explicit tasks in the Dodd-Frank legislation. The Bureau's 2025 priorities outline a more limited but still active role in protecting consumers based off actual injury and, while they are going to be less focused on topics such as pay-day lending and student loans, they will remain focused on mortgage debt and, presumably, the laws surrounding it including RESPA and the Consumer Financial Protection Act (CFPA).

So, what does this mean for the enforcement of federal laws that help create a level playing field in title and settlement? Is this a "defunding" of policing, and will bad actors be able to take advantage of an absence of enforcement? Hardly.

In 2022, the CFPB laid out a game plan for state enforcement of federal consumer laws by state authorities, particularly state Attorneys General. The plan was based on the plain language of both RESPA and the CFPA. While RESPA provides certain statutory damages that can be brought by governmental and private action (more on that shortly), the CFPA provides much broader bases of damages with far greater penalties. RESPA is limited to the 3-year limitation of actions. However, the US Court of Appeals for the 4th District has ruled that the 3-year limitation does not begin to toll until "reasonable discovery" by the damaged party based on the federal Fraudulent Concealment Doctrine. Arguably, both governmental and private rights of action could be brought years from now for today's infractions. A new administration might begin a look back at past violations, and the class action bar could pursue damages now or years from now.

In the waning days of the Biden administration, the CFPB further laid out a game plan for state enforcement and a game plan for state regulators to beef up their enforcement capabilities and penalties. So, where does that leave us? As one political scientist noted, the present Republican Party is different from the party of the first 20 years of this century. That Republican Party was referred to as neo-conservative and very pro-business. The present Republican party is a populist reform party (regardless of one's opinions on the reforms). Historically, that means a party not totally aligned with business interests. One can look back at the difference between the McKinley administration and that of Theodore Roosevelt, who succeeded McKinley upon his death. Roosevelt was a populist reformer Republican, while McKinley was a very pro-business Republican. Roosevelt enforced the Sherman Anti-Trust Act against businesses at a rate of four times that of the McKinley administration. President Trump's appointment of Gail Slater as head of the Anti-Trust Division at Justice and the continued pursuit of the Google Anti-Trust litigation shows this type of populist reform.

Following through the suggestions of the CFPB we have seen significant state action as to RESPA, CFPB and state law enforcement in so-called "blue" jurisdictions such as Pennsylvania and the District of Columbia but also vigorous enforcement of same nature in Texas and, recently, Ohio, two very "red" states in action brought by their respective AGs. One should expect this same type of bipartisan enforcement at the state level in the upcoming years.

What does all this mean when running your business? Stay the course. Follow the law explicitly and discourage others from cutting legal corners in expectation of no, or very limited, enforcement. While there may not be anyone from DC stopping in your office, there may very well be someone from the state capital or a class action attorney sending you unpleasant letters and investigative demands. The penalties can mount into the millions, and the legal defense likewise.

## **March 2025**

**The Law Enforcement Personal Privacy Protection Act and Judicial Personal Privacy Protection Act (Act 56 of 2023)** is scheduled to go into effect on **July 1, 2025**. This law requires all state and local government agencies to **redact** personal contact information, including the home address, of eligible requesting parties from the public records. While protecting this information is critical, the availability of land records is essential to ensure clear titles and provide notice to all parties of rights in land, liens and the priority of mortgages.

As South Carolina's leading organization dedicated to the integrity and professionalism of the land title industry, PLTA has worked to improve this law by expanding definitions, refining procedures and introducing safeguards. In December, we participated in a meeting of stakeholders. Our efforts resulted in the introduction of Senate Bill 126 by Sen. Michael Johnson. The bill now includes updates that protect sensitive information while maintaining transparency and accessibility for essential services and title professionals.

### **Key Provisions of S.126:**

- **Definition of “Disclosed records”:** Mandates that restricted personal contact information remains within official records but is not publicly accessible online.
- **Access for Title Professionals:** Allows disclosure to specific parties, such as title insurers, title insurance agents and attorneys.
- **Subscription & Registration Services:** Information accessed through registration or subscription services will not be subject to these restrictions.
- **Enhanced Procedures:** Clearer procedures for restricting personal information from public records and online databases for application among the state and local agencies.
- **Effective Date:** Originally set for July 1, 2025, the bill will delay the effective date of the Act to January 1, 2026, allowing time for agencies to update their systems.