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TOPIC: WHAT TO KNOW ABOUT FINCEN

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FinCEN went into effect for certain closings occurring on or after March 2, 2026. The U.S. Department of the Treasury, through FinCEN (the Financial Crimes Enforcement Network), has adopted a rule requiring that certain information be collected and reported to the U.S. Department of the Treasury in residential real estate transactions in which:

- the buyer is an **entity (such as an LLC) or a trust;**
- the property is residential (homes, condos, residential lots and 1-4 family dwellings); and
- the transaction is **not financed through a traditional bank or institutional lender****

  **in other words, cash or seller-financed transactions

This rule is aimed at combating money laundering and other illicit activity in real estate transactions. It is not related to taxes and does not affect the terms of a transaction, but a transaction subject to the law *will not close until both the buyer and seller furnish all required information to the closing attorney*. Much of the information is of the kind closing attorneys already gather, but a good deal of additional information is required. Some offices will be gathering the information and reporting it to FinCEN themselves -- others will outsource the work.

If the necessary information is not gathered or not reported, the closing attorney is subject to harsh monetary penalties and, in extreme cases (which seem unlikely), prison.

NOTE: If you are purchasing in your individual name plan to convey the property into an LLC after closing, you are not subject to the rule at the time you make your purchase, but will be subject to the rule when you later convey into your LLC. Still, there may be a benefit to arranging it in this way because at least it will not slow down his initial purchase –a post-closing transfer to his LLC obviously will not have the same time pressures as the initial purchase.

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