



**NEW MEXICO ASSOCIATION OF REALTORS® — 2026  
INFORMATION SHEET –  
FINCEN RESIDENTIAL REAL ESTATE RULE**



**WHAT IS FINCEN?**

The Financial Crimes Enforcement Network (“FinCEN”), is a bureau of the U.S. Department of the Treasury that safeguards the financial system from illicit use, combats money laundering, and promotes national security. Established in 1990, it collects and analyzes financial transaction data, enforces the Bank Secrecy Act, and supports law enforcement investigations.

**WHAT IS THE RESIDENTIAL REAL ESTATE RULE?**

The Residential Real Estate Rule (“Rule”) requires certain professionals involved in real estate closings and settlements to submit reports to FinCEN regarding certain non-financed transfers of residential real estate to legal entities or trusts.

**WHY DID FINCEN ENACT THE NEW RESIDENTIAL REAL ESTATE RULE?**

The Department of the Treasury has long recognized that the illicit use of residential real estate threatens U.S. economic and national security and can disadvantage those that seek to compete fairly in the U.S. real estate market. This reporting requirement is designed to increase transparency in the U.S. residential real estate sector and to combat and deter money laundering.

**WHEN DOES THE NEW RULE TAKE EFFECT?**

The Rule applies to transactions that close after March 1, 2026, even if they went under contract before March 1, 2026.

**WHAT TYPE OF PROPERTY SALES WILL IMPACTED BY THE RULE?**

The property sales impacted will be **1)** residential properties; **2)** transferred to a legal entity or trust; **3)** without traditional financing. All three requirements must be met to trigger the reporting requirement. Definitions and examples of each requirement are as follows:

**1. Residential Properties:**

- One to four family residences;
- Vacant land intended for future one-to four family residence construction;
- A unit within a structure designed one-to four family occupancy; and/or
- A share in a co-op.

**2. Transferring To:**

- **Legal entity:** any corporation, limited liability company, partnership, association, estate, or other entity created by filing a document with a secretary of state or similar office; or
- **Trust:** a legal arrangement where a grantor places assets under a trustee’s control for the benefit of others, or for a specific purpose.
- **Exclusions:**
  - Securities Reporting Issuers
  - Banks and Credit Unions
  - Money Services Businesses
  - Securities Exchange or Clearing Agencies
  - Insurance Companies
  - State-Licensed Insurance Producers
  - Depository Institutions Holding Companies
  - Commodity Exchange Act Registered Entities
  - Governmental Authorities
  - Depository Institutions Holding Companies
  - Brokers And Dealers in Securities
  - Other Exchange Act Registered Entities
  - Public Utilities Financial Market Utilities
  - Registered Investment Companies
  - Subsidiary of an Excepted Entities

**3. Without Traditional Financing:**

- Cash transactions;
- Seller financing (real estate contracts, mortgages, deeds of trust);
- Private money lender transactions;
- Lender financed transactions **if** the loan or line of credit is from a financial institution that is **not** subject to the Bank Secrecy Act, Anti-Money Laundering regulations, or Suspicious Activity Reporting requirements; and
- Gifts of real estate, **except** the following:
  - A transfer that is a grant, transfer, or revocation of an easement;
  - A transfer resulting from the death of an individual, whether pursuant to the terms of a will, the terms of a trust, the operation of law, or by contractual provision;

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**INITIALS SIGNIFY THAT THE BUYER(S) AND/OR SELLER(S) HAS RECEIVED AND REVIEWED THIS INFORMATION SHEET.**



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- A transfer incident to divorce or dissolution of a marriage or civil union;
- A transfer made to a bankruptcy estate;
- A transfer supervised by a court in the United States;
- A transfer for no consideration made by an individual, either alone or with their spouse, to a trust of which that individual, that individual's spouse, or both, are the settlors or grantors;
- A transfer to a qualified intermediary for the purposes of a like-kind exchange for purposes of Section 1031 of the Internal Revenue Code; or
- A transfer for which there is no reporting person.

**WHAT INFORMATION MUST BE REPORTED?**

The real estate report requires information about **1)** the reporting person; **2)** the transferor (Seller); **3)** the transferee (Buyer); **4)** beneficial owner information; and **5)** sales information. For a full list of details, see the table on **Page 4**.

**WHO IS RESPONSIBLE FOR REPORTING:**

Settlement Agents, Title Insurance Agents, Escrow Agents, and Attorneys are considered reporting persons under the Rule, however each transaction only requires one reporting person, which the Rule designates, due to the cascade of reporting persons. For example, the first function on the list is the professional listed as the agent on the closing or settlement statement. If no such professional is involved in the transfer, then the reporting obligation applies to any professional that performed the second function on the list (*i.e.*, the professional that prepared the closing or settlement statement), and so on down the list.

**WHAT ARE THE PENALTIES IF A RESPONSIBLE REPORTING PERSON FAILS TO REPORT?**

- **CIVIL PENALTIES:**
  - **Negligent Violations:** up to \$1,430.00 per violation, with a pattern of negligent activity potentially leading to an additional penalty of up to \$111,308.00.
  - **Willful Violations:** Willful violations could result in a civil penalty of not more than the greater of the amount involved in the transaction (not to exceed \$286,184) or \$71,545. This civil penalty structure generally applies to any willful violation of a Bank Secrecy Act requirement.
- **CRIMINAL PENALTIES:** imprisonment for up to five years, a fine of up to \$250,000.00, or both.

**IF THE RULE APPLIES, HOW WILL IT IMPACT MY CLOSING:**

**Potential Closing Delays:** Title companies (or other responsible reporting persons if a title company is not involved) will not close the transaction without having all of the necessary information. Delays in providing this information to the title company (or other responsible reporting person), by buyer or seller, will result in delays in closing.

**Costs for Closing.** These requirements could result in the title company (or other responsible reporting person) charging additional fees for collection and processing of the required information.

**Contact the Title Company (other person responsible for reporting):**

- To determine how to provide the necessary information. Some reporting persons/entities may have an on-line portal in which buyers and sellers can enter all required information, others may require hard-copy forms to be completed and sent through a secure portal;
- To determine any charges associated with these reporting requirements; and
- To determine any delays the title company (or other reporting person).

**ADDITIONAL DEFINITIONS/EXPLANATION:**

**Beneficial owners of a transferee entity:** an individual who, on the date of closing, either directly or indirectly:

- Exercises substantial control over the transferee entity, or
- Owns or controls at least 25% of the transferee entity's ownership interests.

FinCEN expects that every transferee entity will be substantially controlled by one or more individuals, and therefore that every transferee entity will be able to identify and report at least one beneficial owner. Moreover, transferee entities established as non-profits are assumed to only have beneficial owners who exercise substantial control. Because beneficial owners must be individuals (*i.e.*, natural persons), trusts, corporations, or other legal entities are not considered to be beneficial owners.



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**Beneficial owners of a transferee trust: all individuals who, at the time of the transfer to the trust, fall into any of the following categories:**

- A trustee of the transferee trust;
- An individual other than a trustee who has authority to dispose of transferee trust assets, such as may be the case with a trust protector;
- A beneficiary who is the sole permissible recipient of income and principal from the transferee trust or who has the right to demand a distribution of, or to withdraw, substantially all of the assets of the transferee trust;
- A grantor or settlor who has the right to revoke the transferee trust or otherwise withdraw the assets of the transferee trust; or
- A beneficial owner of a legal entity or trust that holds one of the positions described in the above four categories, taking into account the exemptions that apply to transferee entities and transferee trusts.

**A transferee entity or transferee trust can have multiple beneficial owners; there is no maximum number of beneficial owners and all beneficial owners must be reported. A transferee entity will always have at least one beneficial owner, but certain transferee trusts may have none.**

**Unique Identification Number:**

- **Individual:** Internal Revenue Service (“IRS”) Taxpayer Identification Number (“TIN”); or where none has been issued, either: **i)** a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or **ii)** the unique identifying number and issuing jurisdiction from a non-expired passport issued by a foreign government to the individual.
- **Legal Entity:** An IRS TIN. Where no IRS TIN has been issued, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction. If neither of the above have been issued, an entity registration number issued by a foreign jurisdiction and the name of such jurisdiction. If none of the above have been issued, it is not required to report a unique identifying number.
- **Trust:** An IRS TIN. Where no IRS TIN has been issued, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction. If neither of the above have been issued, it is not required to report a unique identifying number.



More Information, scan the QR Code or visit <https://www.fincen.gov/rre>.



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**REAL ESTATE REPORT INFORMATION**

<b>THE TRANSFEROR (SELLER)</b>	
<b>For an Individual</b>	<b>For a Trust</b>
<ul style="list-style-type: none"> <li>○ Full legal name;</li> <li>○ Date of birth;</li> <li>○ Complete current residential address; and</li> <li>○ A unique identifying number.</li> </ul>	<ul style="list-style-type: none"> <li>○ Full legal name (such as the full title of the agreement establishing the trust);</li> <li>○ Date the trust instrument was executed;</li> <li>○ A unique identifying number, if any;</li> <li>○ For each individual that is a trustee of the trust:               <ul style="list-style-type: none"> <li>▪ Individual’s full legal name;</li> <li>▪ Individual’s current residential street address;</li> <li>▪ A unique identifying number; and</li> </ul> </li> <li>○ For each legal entity that is a trustee of the trust:               <ul style="list-style-type: none"> <li>▪ The legal entity’s full legal name;</li> <li>▪ The legal entity’s trade name or “doing business as” name, if any;</li> <li>▪ The complete current address of the legal entity’s principal place of business (or addresses, if the legal entity’s principal place of business is not in the United States, the street address of the primary location in the United States where the legal entity conducts business, if any); and</li> <li>▪ A unique identifying number, if any.</li> </ul> </li> </ul>
<b>For a Legal Entity</b>	
<ul style="list-style-type: none"> <li>○ Full legal name;</li> <li>○ Trade name or “doing business as” name, if any;</li> <li>○ Complete current street address of the transferor’s principal place of business (or addresses, if the transferor’s principal place of business is not in the United States, the street address of the primary location in the United States where the transferor conducts business, if any); and</li> <li>○ A unique identifying number, if any.</li> </ul>	
<b>THE TRANSFEREE (BUYER)</b>	
<b>For a Legal Entity</b>	<b>For a Trust</b>
<ul style="list-style-type: none"> <li>○ Full legal name;</li> <li>○ Trade name or “doing business as” name, if any;</li> <li>○ Complete current street address of the transferor’s principal place of business (or addresses, if the transferor’s principal place of business is not in the United States, the street address of the primary location in the United States where the transferor conducts business, if any); and</li> <li>○ A unique identifying number, if any.</li> <li>○ Identifying information for the entity’s beneficial owners; and</li> <li>○ Identifying information for the entity’s signing individuals.</li> </ul>	<ul style="list-style-type: none"> <li>○ Full legal name (such as the full title of the agreement establishing the trust);</li> <li>○ Date the trust instrument was executed;</li> <li>○ Whether the trust is revocable;</li> <li>○ A unique identifying number, if any;</li> <li>○ Identifying information for the trust’s <b>beneficial owners</b>;</li> <li>○ Identifying information for the trust’s signing individuals;</li> <li>○ Identifying information for each trustee that is a legal entity;</li> </ul>
<b>BENEFICIAL OWNERS OF ENTITY OR TRUST</b>	<b>SALES INFORMATION</b>
<p><b>For each beneficial owner:</b></p> <ul style="list-style-type: none"> <li>○ Full legal name;</li> <li>○ Date of birth;</li> <li>○ Complete current residential street address;</li> <li>○ Country or countries of citizenship;</li> <li>○ A unique identifying number; and</li> <li>○ For beneficial owners of trusts, the category of beneficial owner they are (trustee, beneficiary, etc.).</li> </ul>	<ul style="list-style-type: none"> <li>○ The total consideration paid or to be paid for the transfer by all transferees;</li> <li>○ Whether the reportable transfer involved credit extended by a person that is not a financial institution with an obligation to maintain an anti-money laundering program and an obligation to report suspicious transactions;</li> <li>○ For Each Payment made by or on behalf of a Transferee Entity or Transferee Trust:               <ul style="list-style-type: none"> <li>○ Amount of the payment;</li> <li>○ Method by which the payment was made;</li> <li>○ If payment was paid from an account held at a financial institution, the name of the financial institution and the account number; and</li> <li>○ Name of the payor on any wire, check, or other type of payment if the payor is not the transferee entity or transferee trust</li> </ul> </li> </ul>