

HB426 INTRODUCED



1 HB426
2 5V7H763-1
3 By Representative Lee
4 RFD: Judiciary
5 First Read: 12-Feb-26



4 SYNOPSIS:

5 This bill would create the Alabama Property
6 Protection Act of 2026 which would provide best
7 practices for title agents, attorneys, realtors, and
8 notaries public to prevent title fraud and classify the
9 existing crime of fraudulent sale of real property as a
10 Class D felony.

11 This bill would establish the crime of
12 aggravated fraudulent sale of real property and
13 classify it as a Class C felony.

14 This bill would establish the Alabama Title
15 Fraud Recovery Fund and an administrative complaint
16 process through the Alabama Securities Commission;
17 allow judges of probate to establish a real property
18 owner notification service; require online real estate
19 platforms to verify ownership prior to publishing a
20 listing; and to remove listings for properties not for
21 sale.

22 This bill would create an expedited quiet title
23 process for victims of title fraud and provide for the
24 recovery of costs and attorney fees in certain quiet
25 title actions.

26 This bill would prohibit remote notarization of
27 documents conveying interest in real property under
28 certain circumstances and also make nonsubstantive,



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technical revisions to update the existing code
language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to title fraud; to add a new Chapter 21 to Title 35, Code of Alabama 1975, to create the Alabama Property Protection Act of 2026; to provide best practices for title agents, attorneys, realtors, and notaries public to prevent title fraud; to establish a consumer administrative complaint process through the Alabama Securities Commission; to add Sections 8-6-61, 12-13-55, and 13A-9-23 to the Code of Alabama 1975, to create the Alabama Title Fraud Recovery Fund to be administered by the Alabama Securities Commission; to grant the Alabama Securities Commission investigative and enforcement authority; to authorize civil penalties for certain fraudulent conveyance actions; to allow judges of probate to establish a real property owner notification service; to establish the crime of aggravated fraudulent sale or lease of residential real property and classify the crime as a Class C felony; to add a new Chapter 19J to Title 8, Code of Alabama 1975, to require online real estate platforms to verify ownership for listings in certain transactions; to amend Sections 6-6-540, 6-6-545, and 6-6-571, Code of Alabama 1975, to provide for expedited quiet title actions and



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recovery of costs and attorney fees in certain quiet title actions; to amend Section 13A-9-22, Code of Alabama 1975, to make fraudulent sale of residential real property a Class D felony; to amend Sections 35-4-20, 35-4-51, and 35-4-58, Code of Alabama 1975, to require instruments conveying title to real property be notarized and to increase the identification required by judges of probate to record instruments conveying title to real property; to amend Sections 36-20-70, 36-20-73, and 36-20-73.1, Code of Alabama 1975, to revise duties of notaries public, to prohibit remote notarization of deeds for certain transactions; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Chapter 21, commencing with Section 35-21-1, is added to Title 35, Code of Alabama 1975, to read as follows:

§35-21-1

This chapter shall be known and may be cited as the Alabama Property Protection Act of 2026.

§35-21-2

For the purposes of this act, the term "commission" means the Alabama Securities Commission.

§35-21-3

(a) The commission shall have authority to investigate claims and administer, implement, and enforce the law under this chapter with respect to all regulated conduct, individuals, and entities described herein, regardless of



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licensure under any other provision of law. This authority shall not preclude other professional licensing authorities from pursuing professional licensing violations under Chapter 25 of Title 27, Chapter 3 of Title 34, Chapter 27 of Title 34, or Chapter 20 of Title 36.

(b) The commission may adopt rules necessary to carry out this chapter, including, but not limited to, rules governing:

(1) Consumer complaint intake and resolution procedures;

(2) Disclosure forms and content;

(3) Examination, reporting, and recordkeeping requirements;

(4) Any fees, fines, penalty schedules, and remedial measures established by rule;

(5) The creation and administration of a consumer recovery fund; and

(6) Definitions and standards necessary to prevent circumvention of this chapter.

(c) The commission may:

(1) Conduct investigations and examinations and issue administrative orders detailing their findings;

(2) Require the production of documents and testimony;

(3) Issue subpoenas;

(4) Issue cease and desist orders;

(5) Impose administrative fines and penalties per violation;

(6) Order restitution, rescission, disgorgement, or



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113 other remedial relief;

114 (7) Prosecute criminal violations where authorized by
115 law; and

116 (8) Coordinate with other agencies as authorized by law.

117 (d) The commission may bring an action in any court of
118 appropriate jurisdiction to obtain an order imposing:

119 (1) Injunctive or other relief;

120 (2) Civil penalties;

121 (3) Restitution, rescission, or disgorgement;

122 (4) Enforcement of administrative orders;

123 (5) Recovery of investigative and enforcement costs;

124 and

125 (6) Appointment of a receiver.

126 (e) Nothing in this chapter shall be construed to limit
127 criminal prosecution under any law or to require exhaustion of
128 administrative remedies prior to criminal enforcement.

129 §35-21-4

130 (a) When the commission determines, after receiving a
131 complaint and conducting an investigation, that a real
132 property or real estate conveyance occurred as a result of a
133 criminal act or fraud, any proceeds derived from the
134 fraudulent conveyance shall be forfeited and deposited into
135 the Alabama Title Fraud Recovery Fund established under
136 Section 8-6-61. No person or individual may profit by
137 retaining proceeds from such a conveyance. Proceeds may
138 include, but are not limited to:

139 (1) Real estate agent commissions or fees;

140 (2) Closing attorney fees;



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(3) Title insurance premiums or agent fees; and
(4) Other payments connected to the fraudulent transaction.

(b) This act does not limit the right to bring civil or equitable actions that may lawfully arise under existing Alabama laws.

(c) The commission shall have the authority to administratively determine land fraud and fraudulent conveyance under this chapter. Nothing in this act shall limit the jurisdiction of the circuit court to hear de novo appeals or to grant equitable relief consistent with a final administrative order of the commission.

§35-21-5

(a) For purposes of fraudulent conveyances of real property, when the seller, real property owner, or landlord is unknown to the real estate agent or broker licensed under Chapter 27 of Title 34 and is not physically present to meet with a real estate agent prior to listing real property for sale or rent, the following shall be considered best practices for real estate agents or brokers prior to listing real property on any multiple listing services, websites, or listing portals.

(1) If real property is owned by an individual, a real estate agent should request and obtain the legal identification of the real property owner, then:

a. Verify that the identification provided matches the county land records;

b. Use an identity verification technology service to



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ensure the identification provided matches the phone records of the telephone number provided by the seller, real property owner, or landlord; and

c. Document and maintain these records for a period of five years.

(2) If real property is owned by an entity, a real estate agent should request and obtain:

a. The legal identification of the real property owner or an authorized company representative;

b. The real property deed or documents showing the exact company name;

c. Written authority for the individual to act on the company's behalf, such as a member or manager resolution, board resolution, operating agreement, or other document that establishes the individual's authority to act on behalf of the company; and

d. A verification from an identity verification service that the identification and company records provided match the county land records, and confirmation, using the identity verification service, that the identification matches the phone records for the telephone number provided by the seller, real property owner, or landlord.

(3) The real estate agent shall document and maintain the records required in subdivision (2) for five years.

(b) Adherence to these best practices shall create a rebuttable presumption that the licensed real estate agent or broker acted in a reasonable manner. Such adherence does not preclude administrative action by the commission. The



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197 existence of the presumption shall be a question of law for
198 the court and may be determined on a motion for summary
199 judgment.

200 (c) An action against a real estate agent or broker
201 arising from a transfer of real property shall be commenced no
202 later than four years after the date the transfer is recorded
203 in the public records.

204 §35-21-6

205 (a) For purposes of fraudulent conveyances of real
206 property, the following shall be considered best practices for
207 a title agent licensed under Chapter 25 of Title 27 when the
208 real property owner is unknown to the title agent and is not
209 physically present at the closing:

210 (1) Obtaining the real property owner's legal
211 identification and proof of real property ownership before
212 conducting a closing.

213 (2) Verifying the real property owner's identification
214 using an identification verification technology service.

215 (3) Conducting live voice or facial recognition
216 verification of the real property owner.

217 (4) Providing written notice to the record owner that
218 the real property is under contract to be sold and that a
219 title policy has been requested for the real property.

220 (5) Verifying notarizations for remote signers by
221 speaking with the notary and confirming that the notary is
222 listed on the Secretary of State's website.

223 (6) For mail-away or remote closings, selecting the
224 notary public that the real property owner will use near the



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owner's geographic location to ensure a neutral, independent third party is physically present to verify the owner's identity and witness the real property owner's signature.

(b) Adherence to these best practices shall create a rebuttable presumption that the title agent acted in a reasonable manner. Such adherence does not preclude administrative action by the commission. The existence of the presumption shall be a question of law for the court and may be determined on a motion for summary judgment.

(c) An action arising against a title agent arising from a transfer of real property shall be commenced no later than four years after the date the transfer is recorded in the public record.

(d) A title insurance company shall not be civilly liable for the negligent acts or omissions of a title agent, except as expressly provided in the terms of a title insurance policy.

§35-21-7

(a) For purposes of fraudulent conveyances of real property, the following shall be considered best practices for an attorney licensed under Chapter 3 of Title 34 who conducts real estate closing services but is not acting on behalf of a title insurer or title agent when the real property owner is unknown to the attorney and is not physically present at the closing:

(1) Obtaining the real property owner's legal identification and proof of property ownership, prior to conducting a closing.



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(2) Verifying the real property owner's identification using an identification verification technology service.

(3) Conducting live voice or facial recognition verification of the real property owner.

(4) Providing written notice to the record owner that the real property is under contract to be sold.

(5) Verifying notarizations for remote signers by speaking with the notary and confirming that the notary is listed on the Secretary of State's website.

(6) For mail-away or remote closings, selecting the notary public that the real property owner will use from near the owner's geographic location to ensure a neutral, independent third party is physically present to verify the owner's identity and witness the real property owner's signature.

(b) Any expense associated with the additional due diligence resulting from the real property owner's absence may be passed on to the buyer or seller according to the terms of the purchase agreement or other contractual documents.

(c) Adherence to these best practices shall create a rebuttable presumption that the attorney acted in a reasonable manner. Such adherence does not preclude administrative action by the commission. The existence of the presumption shall be a question of law for the court and may be determined on a motion for summary judgment.

(d) An action against an attorney arising from a transfer of real property shall be commenced no later than four years after the date the transfer is recorded in the



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281 public record.

282 §35-21-8

283 (a) For purposes of fraudulent conveyances of real
284 property, the following shall be considered best practices for
285 notaries public appointed and commissioned under Chapter 20 of
286 Title 36:

287 (1) If a notary is asked to perform a notarial act for
288 a party who is a signatory to an instrument that conveys,
289 transfers, encumbers, or affects real estate, verifying the
290 legal identity of the signatory.

291 (2) Maintaining a current address and phone number with
292 the Secretary of State.

293 (b) Adherence to these best practices shall create a
294 rebuttable presumption that the notary acted in a reasonable
295 manner. Such adherence does not preclude administrative action
296 by the commission. The existence of the presumption shall be a
297 question of law for the court and may be determined on a
298 motion for summary judgment.

299 (c) An action against a notary arising from a transfer
300 of real property shall be commenced no later than four years
301 after the date of the transfer is recorded in the public
302 record.

303 §35-21-9

304 (a) For purposes of fraudulent conveyances of real
305 property, the following shall be considered best practices for
306 online real estate platforms, as defined by Section 8-19J-1,
307 that display and advertise real property for sale or lease:

308 (1) The online real estate platform requires



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verification of identity and proof of ownership before a listing originating on its site is made active.

(2) The website, portal, or service follows the best practices outlined in Section 8-19J-2.

(b) Adherence to these best practices shall create a rebuttable presumption that the online real estate platform acted in a reasonable manner. Such adherence does not preclude administrative action by the commission. The existence of the presumption shall be a question of law for the court and may be determined on a motion for summary judgment.

(c) An action against an online real estate platform shall be commenced no later than four years after the date the transfer is recorded in the public record.

(d) An online real estate platform may not be liable for the negligence arising from a syndicated listing or an intermediary agent or broker that fails to obtain property documentation before listing real property.

§35-21-10

(a) The commission may fund a statewide real property notification alert system that notifies a real property owner by text or email when a recording is made on his or her real property. Judges of Probate offices, upon request, may provide the commission with available contact information for real property owners within his or her county for this purpose.

(b) Judges of probate and their staff are encouraged to work with the commission to successfully enforce real estate fraud laws, prevent fraud, and provide consumer education to real property owners.



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(c) The commission may provide training and assistance to judges of probate, their staff, and real property owners on real estate fraud prevention and consumer education. Judges of probate are encouraged to establish fraud prevention policies and to provide consumer education to real property owners.

§35-21-11

The expedited quiet title process established in Section 6-6-540 applies to transactions in this chapter.

§35-21-12

(a) Upon receipt of a complaint alleging land fraud or a fraudulent conveyance, the commission may investigate the matter using all authority granted under this chapter.

(b) If the commission determines that a real property conveyance resulted from a criminal act or fraud involving the true ownership of the real property, the commission may issue a final administrative order declaring the conveyance void. The commission, in the same order, may impose civil penalties, order restitution, or disgorgement, and assess any other remedies authorized by law.

(c) A final administrative order issued by the commission declaring a conveyance void shall be legally binding and enforceable. The administrative order shall not be stayed except by order of the circuit court in a timely filed appeal.

(d) Upon issuance of a final administrative order, the commission shall serve a copy of the order by certified mail upon the complainant and all parties to the proceeding. The complainant may file a certified copy of the final



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administrative order in the circuit court of the county where the real property is located for purposes of enforcement and quiet title relief.

§35-21-13

(a) Any party aggrieved by a final administrative order of the commission may seek de novo judicial review by filing an appeal in the circuit court of the county where the real property is located no later than 30 days after the date of the final administrative order.

(b) The circuit court shall conduct a de novo review of the commission's determination and may affirm, modify, or vacate the order.

§35-21-14

(a) If no timely appeal is filed, the circuit court, upon a quiet title petition by the complainant, shall enter an order enforcing the final administrative order no later than 30 days from the filing date of the quiet title petition without further evidentiary hearing or procedural delay. The court may waive the filing fees and court costs for good cause shown. The enforcement order shall:

(1) Declare the fraudulent conveyance or attempted conveyance void;

(2) Direct the judge of probate to remove or nullify any recorded instrument that clouds title or conflicts with the administrative order; and

(3) Quiet title in favor of the rightful real property owner.

(b) The probate court shall act promptly upon receipt



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of a quiet title enforcement order issued by the circuit court pursuant this section.

§35-21-15

(a) When the commission determines, after receiving a complaint and conducting an investigation, that a real property or real estate conveyance occurred as a result of a criminal act or fraud, any proceeds derived from the fraudulent conveyance shall be forfeited and deposited into the Alabama Title Fraud Recovery Fund established under Section 8-6-61, unless otherwise ordered by the circuit court. Proceeds may include, but are not limited to:

- (1) Real estate agent commissions or fees;
- (2) Closing attorney fees;
- (3) Title insurance premiums or agent fees; and
- (4) Other payments connected to the fraudulent transaction.

(b) This section does not limit the right to bring civil or equitable actions that may lawfully arise under existing Alabama laws.

(c) Any person who knowingly fails to remit proceeds from a fraudulent conveyance or files frivolous litigation to delay enforcement may be assessed an additional civil penalty of ten thousand dollars (\$10,000), payable to the Alabama Title Fraud Recovery Fund.

§35-21-16

The crimes of fraudulent sale or lease of residential real property or aggravated fraudulent conveyance of real property established in Article 1, Chapter 9 of Title 13A does



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not preclude the state from pursuing additional criminal prosecution as authorized by law.

§35-21-17

(a) For the purpose of combating real estate related fraud, the Secretary of State may implement, by rule, a secure business filing system that includes authentication of filer identity, verification of authority to file, and credentialed filers programs. The Secretary of State may establish expedited and streamlined filing processes for verified or credentialed filer and additional verification review requirements for unverified or infrequent filers as necessary to protect the integrity of the filing system. The Secretary of State's office may refuse a business filing that it believes to be fraudulent.

(b) Rules adopted under this section shall be reasonable, nondiscriminatory, and designed to preserve public access to lawful filings while preventing fraud and abuse.

Section 2. Sections 8-6-61, 12-13-55, and 13A-9-23 are added to the Code of Alabama 1975, to read as follows:

§8-6-61

(a) There is established in the State Treasury an Alabama Title Fraud Recovery Fund to be administered by the Alabama Securities Commission in accordance with this section. The fund shall be budgeted and allotted in accordance with Article 4 of Chapter 4 of Title 41 and Chapter 19 of Title 41.

(b) Money in the fund shall only be used to compensate individuals injured by title conveyance fraud for actual economic damages, excluding interest and court costs, incurred



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by the injured party. Payments from the fund are subject to the following limitations and conditions:

(1) The fund shall only make payments to real property owners who file a complaint with the commission as required by this section.

(2) The fund shall not issue payments based on consent judgments.

(c) The commission, by rule, shall set the maximum payment amount that can be issued from the fund to a complainant.

(d) Any person with a claim for title conveyance fraud may submit a written complaint to the commission, which may investigate it.

(e) During the investigation of a complaint, the commission may:

- (1) Hold hearings;
- (2) Subpoena witnesses;
- (3) Administer oaths;
- (4) Examine any individual under oath; and
- (5) Compel the production of records, books, papers, contracts, or other documents.

(f) If an individual fails to comply with a subpoena issued by the commission or to testify on matters for which they can be questioned under this section, the commission may petition a court of competent jurisdiction for enforcement.

(g) If the commission determines that a person is liable for fraudulent title conveyance, the commission may take any of the following actions:



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(1) Issue an administrative order finding the fraudulent conveyance void and removing it from the official real property records of the probate court.

(2) Impose a civil penalty of up to one million dollars (\$1,000,000) per transaction on the liable individual or entity, which shall be deposited into the Alabama Title Fraud Recovery Fund.

(h) Any final order issued by the commission shall be legally binding and shall not be stayed except by order of the circuit court in a timely filed appeal. Any party dissatisfied with a final judgment or decision by the commission may appeal to the circuit court where the property is located no later than 30 days from the date of the final administrative order of the Alabama Securities Commission. For appeals, the commission shall provide a certified transcript of the proceedings and actions taken by the commission to the circuit court to which the appeal is taken.

§12-13-55

(a) In cooperation with the Alabama Securities Commission, each judge of probate may establish a real property owner notification service that informs owners of real property in the county whenever a document is recorded in the name of the real property owner or the address of the real property owner registered with the recording clerk where the property is located.

(b) Once established, the property owner notification service shall be free and available to any property owner who owns real property in the county.



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(c) A judge of probate, the commission, or a third-party provider shall not be liable for failure to provide notice under this section.

§13A-9-23

(a) A person commits the crime of aggravated fraudulent sale or lease of residential real property if, with the intent to defraud:

(1) The person either: (i) lists, advertises, or causes the listing or advertisement of residential real property for sale knowing that the person or the purported seller has no legal title or authority to sell the real property; or (ii) rents, leases, or causes the rental or leasing of real property knowing the person or the purported lessor has no legal ownership or authority to lease the property; and

(2) Either: (i) the person received funds related to the sale or lease; or (ii) the property is owned individually or jointly by an individual who is 70 years of age or older.

(b) Aggravated fraudulent sale of real property is a Class C felony.

Section 3. Chapter 19J, commencing with Section 8-19J-1, is added to Title 8, Code of Alabama 1975, to read as follows:

Chapter 19J

§8-19J-1

For the purposes of this chapter, the term "online real estate platform" means: (i) a digital media platform whose primary business purpose is to publicly advertise real estate for sale or lease; or (ii) a real estate website whose primary



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purpose is publicly advertising real estate for sale or lease. This definition does not apply to nonpublic websites, portals, list servers, social media websites, or new sites.

§8-19J-2

For a listing that originates from an online real estate platform, the platform shall require the following before publishing, hosting, advertising, or otherwise publicly disseminating real property for sale or lease by a person who is not represented by an agent, broker, or brokerage service:

(1) A copy of the owner's government-issued identification that is unexpired and includes the individual's photograph, name, and address.

(2) A copy of the official county recorder's records showing the owner of record, a copy of the deed to the real property with the owner's name and signature, or a title history.

§8-19J-3

(a) Interior photos and videos may not be: (i) used indefinitely by an online real estate platform for commercial purposes; (ii) used to imply that a property is for sale; or (iii) remain publicly available without written permission from the current owner of the real property.

(b) An online real estate platform shall remove all publicly available interior photos, videos, and all nonpublic information from the real estate platform website no later than 30 days from the date of sale, withdrawal from sale, request of the owner or real estate agent representing the owner that the media be removed, or upon notification and



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561 syndication from a multiple listing service.

562 (c) An online real estate platform may not publicly
563 display, publish, host, advertise, or otherwise distribute
564 interior photos or listings for real estate: (i) that is not
565 for sale; or (ii) that was previously listed for sale and sold
566 more than 30 days ago.

567 §8-19J-4

568 The commission may create an administrative complaint
569 process for real property owners to ensure compliance with
570 this chapter.

571 §8-19J-5

572 No Internet service provider, or its affiliates or
573 subsidiaries, search engine, or cloud service provider shall
574 be considered to have violated this chapter solely for
575 providing access or connection to or from a website, to
576 content on the Internet, or to a facility, system, or network
577 not under that provider's control, including transmission,
578 download, intermediate storage, or access software.

579 Section 4. Sections 6-6-540, 6-6-545, 6-6-571,
580 13A-9-22, 35-4-20, 35-4-51, 35-4-58, 36-20-70, 36-20-73, and
581 36-20-73.1, Code of Alabama 1975, are amended to read as
582 follows:

583 "§6-6-540

584 (a) When any person is in peaceable possession of
585 lands, whether actual or constructive, claiming to own the
586 same, in his or her own right or as a personal representative
587 or guardian, and his or her title ~~thereto~~, or any part
588 thereof, is denied or disputed or any other person claims or



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is reputed to own the same, any part thereof, or any interest therein or to hold any lien or encumbrance thereon and no action is pending to enforce or test the validity of ~~such~~ the title, claim, or encumbrance, ~~such~~ the person or his or her personal representative or guardian, ~~so~~ in possession, may commence an action to settle the title to such lands and to clear up all doubts or disputes concerning the same.

(b) (1) An expedited quiet title action against a parcel of real property may be maintained under this article based on a fraudulent title conveyance allegation. All actions to quiet title based on fraudulent title conveyance allegations shall be brought in the circuit court where the real property is located which shall have equitable jurisdiction pursuant to Section 12-11-31.

(2)a. A petitioner bringing an action to quiet title based on fraudulent title conveyance allegations is entitled to an expedited procedure. The court shall set the date, time, and place for a preliminary hearing on the petition no later than 30 days from service of the complaint.

b. In an expedited action to quiet title under this section, when the court determines that an attempt was made to fraudulently convey the land at issue from a plaintiff who had legal title to the land before the conveyance, the court must quiet title in and award the plaintiff with the same title and rights to the land that the plaintiff enjoyed before the attempted conveyance.

(3) A petitioner may file a single petition with the clerk of the circuit court for the judicial circuit in which



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the subject property is located for an order to quiet title and expedite foreclosure to one or more parcels of real property under this section. The petition shall identify each parcel by its legal description, tax parcel number, and street address, if available.

(4) The Administrative Office of Courts shall provide a simplified form for the filing of a complaint to quiet title based on a fraudulent title conveyance allegation and instructions for completing such form."

"§6-6-545

(a) No judgment for costs shall be had under this division against a defendant ~~who suffers a judgment by default against him~~ against whom a plaintiff receives a default judgment or who, in his or her answer, disclaims all title to, interest in, or encumbrance on the lands; ~~but the~~. The court ~~shall~~, in those cases, ~~and~~ without further proof, shall adjudge that ~~such the~~ defendant has no estate or interest in or encumbrance on such lands, or any part thereof. Any defendant who ~~shall~~, by answer under oath, ~~deny~~ denies that he or she claims, or ever has claimed, or pretended to have any estate, interest, or encumbrance in, or upon, such lands, or any part ~~thereof~~ of the lands, shall be entitled to recover his or her costs in the action.

(b) In any case where it is found that the defendant fraudulently created or caused to be created the instrument that is sought to be canceled, the plaintiff shall be entitled to recover all costs, including reasonable attorney fees, incurred in bringing the action to cancel the instrument."



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645 "§6-6-571

646 (a) The court ~~shall have the power to~~ may assess the
647 cost of a hearing held pursuant to the terms of this division,
648 including the fee of the guardian ad litem, to the
649 plaintiffs~~;~~ , provided~~, that should some of the defendants file~~
650 that if any defendant files counterclaims or ~~should certain~~
651 ~~persons intervene~~ any person intervenes, the cost shall be
652 assessed by the court as justice may require.

653 (b) In any case where it is found that the defendant
654 fraudulently created the instrument that is sought to be
655 canceled, the plaintiff shall be entitled to recover all
656 costs, including reasonable attorney fees, incurred in
657 bringing the action to cancel the instrument."

658 "§13A-9-22

659 (a) A person commits the crime of fraudulent sale or
660 lease of residential real property if, with intent to defraud,
661 he or she does either of the following:

662 (1) Lists~~or,~~ advertises, or causes to list or
663 advertise residential real property for sale knowing that he
664 or she or the purported seller has no legal title or authority
665 to sell the property.

666 (2) Rents~~or,~~ leases, or causes to rent or lease
667 residential real property to another person knowing that he or
668 she or the purported lessor has no legal ownership or other
669 authority to lease the property.

670 (b) Fraudulent sale or lease of residential real
671 property is a Class ~~A misdemeanor~~ D felony.

672 "§35-4-20



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673 Conveyances ~~for the alienation~~ of lands must be:

674 (1) ~~written~~Written or printed, or partly written and

675 partly printed, on ~~parchment or~~ paper; ~~and must be~~

676 (2) ~~signed~~Signed ~~at their foot~~ by the ~~contracting party~~

677 maker or his or her agent having a written authority; or, if

678 ~~he is~~ the maker is not able to sign ~~his name~~, then ~~his~~ the

679 maker's name must be written for him or her, with the words

680 "his mark" or "her mark" written against the same, or over it;

681 (3) ~~the execution of such conveyance must be~~

682 ~~attested~~Attested by one witness or, where the party cannot

683 write, by two witnesses who are able to write and who must

684 write their names as witnesses; or, if ~~he~~the maker can write

685 his or her name but does not do so and his or her name is

686 written for ~~him~~the maker by another, then the execution must

687 be attested by two witnesses who can and do write their

688 names ~~;~~ and

689 (4) Attested by a notary public licensed pursuant to

690 Chapter 20 of Title 36."

691 "§35-4-51

692 (a) For the purposes of this section, the following

693 terms have the following meanings:

694 (1) GOVERNMENT ISSUED IDENTIFICATION. One of the

695 following documents that is unexpired and includes the

696 individual's photograph, name, and address:

697 a. A United States passport.

698 b. A United States military identification card.

699 c. A tribal identification card issued by a tribe

700 recognized by the federal government or the State of Alabama.



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d. An Alabama driver license or nondriver identification card.

e. An Alabama voter identification card.

f. A driver license issued by another state.

(2) INSTRUMENT. Any of the following:

a. A deed or other document transferring title to real property in Alabama.

b. A deed of trust, mortgage, judgment, lien, encumbrance, bill of sale, financing statement, affidavit, notice, memorandum, or any other instrument that establishes a security interest in real property in Alabama.

c. A contract, right of refusal, lease, affidavit, memorandum, or any other instrument that purports to establish an interest, option, encumbrance, right, or any other claim relating to interest in real property in Alabama.

d. An assignment of a mortgage, deed of trust, or other security for debt or an extension agreement.

(3) SUSPICIOUS INSTRUMENT. An instrument submitted for recording of which the office of the judge of probate has found any of the following:

a. The instrument purports not to be subject to the laws of the United States or the laws of Alabama.

b. The instrument does not conform to recordation requirements established by the laws of Alabama.

c. The instrument is submitted by an individual who is not a trusted submitter and the identity verification requirements of this section are not met.

(4) TRUSTED SUBMITTER. Any of the following:



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a. An attorney licensed to practice law in this state or a representative of an attorney licensed to practice law in this state.

b. An agent of a bank or credit union with federal deposit insurance or an affiliate of a bank or credit union.

c. An agent of a licensed or exempt mortgage lender pursuant to Chapter 25 or 26 of Title 5.

d. An agent of a servicer as defined in 12 C.F.R. § 1024.2.

e. A public official or employee of a federal, state, or local government or a department, agency, board, commission, or authority performing his or her official duties.

f. A professional land surveyor licensed under Chapter 11 of Title 34 and in good standing with the State Board of Licensure for Professional Engineers and Land Surveyors.

(b) When an instrument is presented to the judge of probate for recording by a person who is not a trusted submitter, the following requirements apply:

(1) If presented by an individual in person, the judge of probate shall require the individual presenting the instrument to produce a government issued identification for inspection prior to recording the instrument.

(2) If presented by an individual via paper or electronic delivery, the judge of probate shall require the inclusion of a photocopy of the individual's government issued identification prior to recording the instrument.

(3) If presented by an entity in person, the judge of



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probate shall require production of the following, as applicable:

a. A corporation must produce a certificate of good standing and a secretary's certificate signed by an authorized officer of the corporation.

b. A trust must produce a certificate of trust.

c. An estate must produce letters testamentary or letters of administration.

d. A limited liability company must produce a resolution signed by its members.

e. An unincorporated nonprofit association must present a sworn statement attesting to the authority of the individual presenting the instrument to act on behalf of the association.

f. If presented by an individual on behalf of the entity, the government issued identification of the individual presenting the instrument for recordation.

g. If presented by an entity via paper or electronic delivery, a photocopy of the government issued identification of the individual or officer of the entity authorized to record the instrument, as applicable.

(c) If the instrument was prepared and executed by mail, the instrument must contain a statement to that effect.

(d) The judge of probate shall accept, without certification, a deed submitted for recording by a trusted submitter, as defined in this section, containing the following statement on the deed: "This instrument prepared by: _____, an attorney licensed in the State of Alabama. As closing attorney or title agent, I certify what I



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was physically present at the closing. I also certify that any delinquent and current taxes owed will be paid by my office to the county tax assessing official upon disbursement of closing proceeds."

(e) The judge of probate shall provide notice of the requirements of this section on the website of the judge of probate or in the area of the office of the judge of probate open to the public for the purpose of allowing the public to record instruments.

(f) Except as may be otherwise provided by the Uniform Commercial Code, ~~all deeds, mortgages, deeds of trust, bills of sale, contracts, or other documents purporting to convey any right, title, easement, or interest in any real estate or personal property and all assignments of mortgages, deeds of trust, or other securities for debt or extension agreements~~ instruments ~~with respect thereto, when~~ that are executed in accordance with law, shall be admitted to record in the office of the ~~probate~~ judge of probate of any county. ~~Their~~ Its filing for registration shall constitute notice of ~~their~~ its contents.

(g) This section shall not be construed as superseding or repealing any other laws effective in Alabama relative to the subject matter in this article, but shall be held and construed to be cumulative."

"§35-4-58

(a) Judges of probate ~~are to~~ shall procure, at the expense of their counties, large and well-bound books, in which must be recorded in a fair hand, or by printing the



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813 same, or by the use of a typewriter or other writing or
814 printing, ~~photograph or photostat~~or photocopier machine, word
815 for word, conveyances of property and all other instruments
816 authorized to be recorded, with the acknowledgments, proofs,
817 schedules, plats, surveys, etc., belonging thereto; and, at
818 the foot or in the margin of the record of each conveyance or
819 other instrument, the day of the month and year of the
820 delivery of the ~~same~~ instrument for record must be specified.
821 The judge making the record of any conveyance or other
822 instrument must certify on the same when it was received and
823 recorded and in what book and page the same is recorded and
824 must deliver it to the party entitled thereto, or his or her
825 order, on the payment of the fees of registration; ~~but the~~ .
826 (b) The judge of probate may refuse to ~~indorse~~ endorse
827 "filed" on any conveyance or other instrument or to record the
828 ~~same until~~ instrument if one of the following occurs:
829 (1) ~~such~~ The fees of registration are not paid ~~and~~
830 ~~unless.~~
831 (2) ~~the~~ The conveyance or other instrument is not
832 witnessed, probated, or acknowledged as required by this ~~Code~~
833 chapter ~~.~~ .
834 (3) The individual or entity presenting the instrument
835 for recording is not a trusted submitter and fails to provide
836 the required government issued identification or documents.
837 (4) The individual or entity presenting the instrument
838 for recording is not a trusted submitter and the required
839 government issued identification or documents do not match the
840 name of the grantor, grantee, or officer of the grantor or



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grantee in the instruments presented for recording.

(5) The office of the judge of probate deems the instrument presented for recording a suspicious instrument.

(c) Upon finding that an instrument presented for recording is a suspicious instrument, the office of the judge of probate may report the suspicious instrument to an appropriate law enforcement agency.

(d) There is no right or cause of action against, and no civil liability on the part of, the office of the judge of probate or county with respect to the office of the judge of probate's requirement of a government issued identification or other documentation or any refusal to record any instruments pursuant to this chapter.

(e) ~~provided, that in~~ In counties ~~wherein~~ where a photostat photocopier machine or other similar ~~photograph~~ copying machine is used and ~~an electric~~ a time clock or time stamp is used, the judge of probate may make the certificate required by this section by having ~~same~~ the certificate stamped upon the instrument with the ~~electric~~ time stamp ~~to read as follows~~ the following statement:

"STATE OF ALABAMA _____ COUNTY

I CERTIFY THIS INSTRUMENT WAS FILED ON THE _____ DAY OF _____ (Month), _____ (Year) at _____ (time). Recorded book and page as shown above.

(Signed) _____, Judge of Probate."

For making the certificate required by this section the judge of probate shall not be entitled to any additional fee for his or her service, other than that now provided for in



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869 Section 12-19-90."

870 "§36-20-70

871 (a) (1) A competent number of notaries public for the
872 state ~~at large~~ at-large shall be appointed and commissioned by
873 the judges of probate of the several counties of the state and
874 shall hold office for four years from the date of their
875 commission. Notaries public shall perform all the acts and
876 exercise all authority under the general laws of the State of
877 Alabama. The jurisdiction of the notaries public shall not be
878 limited to the counties of their residence and shall extend to
879 any county of the state.

880 (2) The judges of probate shall collect a fee of
881 twenty-five dollars (\$25) for each notary commission issued.

882 (3) The judges of probate shall also report to the
883 Secretary of State the name, phone number, county of
884 residence, date of issuance, and date of expiration of the
885 commission of each notary public appointed and commissioned
886 under this subsection on a form prescribed by the Secretary of
887 State. The Secretary of State shall post this information on
888 his or her official website searchable by name.

889 (4) Each commissioned notary public shall maintain
890 accurate contact information with the Secretary of State and
891 update the contact information no later than 30 days after any
892 change.

893 (b) All existing notaries public functioning on
894 September 1, 2023, shall continue to function pursuant to
895 their existing authority for the remainder of their existing
896 commission.



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(c) Each applicant for notary public commission shall pay a ten dollar (\$10) application fee. A judge of probate may accept or deny any application for notary public commission, as developed by the Alabama Probate Judges Association and the Alabama Law Institute, and shall deny an application for notary public commission on any of the following grounds:

(1) The applicant is not a resident of this state.

(2) The applicant makes the application to a judge who is not the judge of probate of the county of the applicant's residence.

(3) The applicant has been convicted of a felony or crime of moral turpitude.

(4) The applicant is currently a debtor in a bankruptcy proceeding.

(5) The applicant is under a current order adjudicating him or her incapacitated.

(6) The applicant provides false information on the application.

(7) The applicant is unable or unwilling to successfully complete the training program required in subsection (e) within 30 days after submitting his or her application. This time frame may be extended by the judge of probate upon good cause shown.

(d) A notary public is not an insurer but is under a duty to act honestly, skillfully, and with reasonable diligence. A notary public shall not perform an acknowledgment in any transaction where he or she has a pecuniary interest.

(e) Before being commissioned, an applicant for a



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notary public commission shall successfully complete a training program prepared by the Alabama Probate Judges Association and the Alabama Law Institute that reinforces and updates the applicant's knowledge of all matters relevant to the appointment, authority, duties, and legal and ethical responsibilities of a notary public. An attorney who is commissioned as a notary public under this article is not required to complete the training requirement. A notary public who is commissioned as of September 1, 2023, shall be required to complete the training requirement upon submitting an application for the renewal of his or her expired commission."

"§36-20-73

(a) Notaries public may do all of the following:

(1) Administer oaths in all matters incident to the exercise of their office.

(2) Take the acknowledgment or proof of instruments of writing relating to commerce or navigation and certify the same and all other of their official acts under their seal of office.

(3) Demand acceptance and payment of bills of exchange, promissory notes, and all other writings which are governed by the commercial law as to days of grace, demand, and notice of nonpayment and protest the same for nonacceptance or nonpayment and ~~to~~ give notice thereof as required by law.

(4) Exercise such other powers, according to commercial usage or the laws of this state, as may belong to notaries public.

(b) No notary public shall be obligated to perform a



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notarial act if he or she has a reason to believe the act is:

(1) For a transaction that the notary public knows or suspects is illegal, false, or deceptive;

(2) For an individual who is being coerced;

(3) For an individual whose demeanor causes compelling doubts as to whether the person knows the consequences of the transaction requiring the notarial act; or

(4) For situations that compromise the notary public's impartiality."

"§36-20-73.1

(a) Except as otherwise provided in this section, any signature acknowledged by a notary public shall be executed within this state and shall be executed in the physical presence of the notary public at the time of the acknowledgment, only after the notary public has positively identified the prospective signatory via personal knowledge of the prospective signatory or the examination of photo identification issued by a governmental entity or agency.

(b) For the purposes of this section, the following terms shall have the following meanings:

(1) ORIGINAL SIGNATURE. A signature signed directly onto a document in wet ink by an individual who is named on the document.

(2) SIGNATORY. The individual who is named on the document and is to sign the document.

(c) Unless otherwise provided by law, the powers and functions of a notary public require his or her original signature.



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(d) For purposes of this article, and subject to subsections (e) to (g), inclusive, an individual may personally appear before an acknowledging notary by either of the following:

(1) Physically appearing before the notary as provided in subsection (a).

(2) Appearing through the use of two-way audio-video communication technology that allows a notary public and a remotely located signatory to communicate with each other simultaneously by sight and sound, provided that: (i) the notary public is physically located in this state; and (ii) the two-way audio-video communication is recorded and maintained for a period of seven years by the notary public.

(e) All of the following shall occur prior to the performance of a remote electronic notarial act:

~~(1) If appearing through the use of two-way audio-video communication, the~~The identity of the signatory shall be verified by the notary public using either of the following methods:

~~(1)a.~~ a. The personal knowledge of the notary public of the identity of the signatory.

~~(2)a.b.1.~~ b.1. The presentation of two valid forms of government issued identification, one of which shall include the face and signature of the signatory; and

~~b.2.~~ b.2. A process by which the notary public verifies the identity of the signatory through a review of public or private data sources.

(2) The remote notary shall verify that the remotely



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located signatory does not appear, in the judgment of the electronic notary, to be incompetent, lacking in understanding of the nature and consequences of the transaction requiring the notarial act, or acting involuntarily, under duress, or under undue influence.

(3) The notary shall verify the identity of the remotely located signatory pursuant to this section.

(4) The notary shall inform the participants that Alabama law requires that a recording be made of the remote electronic notarization.

(f) The two-way audio-video communication recording shall contain all of the following:

(1) The date and time of the remote notarial act.

(2) A description of the documents to which the remote notarial act relates.

(3) An attestation by the notary public of being physically located in this state.

(4) A description of how the identification of the signatory was verified.

(5) A clear image of any government issued identification, if applicable.

(6) A clear image of the act of signing observed by the notary public.

(g) The official date and time of the notarization is the date and time the notary public witnessed the signature, including the date and time the signature was witnessed via two-way audio-video communication technology. All documents used during the two-way audio-video communication, shall be



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provided to the notary public for his or her authentication and original signature.

(h) An electronic notary shall refuse to perform a remote electronic notarial act if either of the following applies:

(1) The electronic notary has reasonable grounds to believe the remotely located signatory appears in the judgment of the electronic notary to be incompetent, lacking in understanding of the nature and consequences of the transaction requiring the notarial act, or acting involuntarily, under duress, or under undue influence.

(2) The electronic notary becomes aware that the communication technology is not secure or the image presented of the signatory appears to be artificially generated.

~~(h)~~ (i) Any action taken before July 1, 2021, allowing for the remote notarization of signatures under the Emergency Management Act of 1955, Article 1 of Chapter 9 of Title 31, is ratified and confirmed.

(i) Remote notarization may not be used to notarize an absentee ballot application or an absentee ballot affidavit, or for any purpose related to voting."

Section 5. This act shall become effective on October 1, 2026.