



New England Regional Midweek Update
12/10/2025

Dear Stewart Partners,

As we approach the end of 2025, in this week's Mid-Week Update we remind you of certain new and upcoming regulatory developments that will impact the way you do business in 2026, specifically, the new Massachusetts Non-Resident Filing Requirements and the upcoming FinCEN Anti Money Laundering (AML) rule. Additionally, we are providing a discussion of the continuing litigation involving the constitutionality of state statutes involving tax sales to enforce delinquent real estate taxes.

In case you missed it, we have also included a link to a recent Stewart Bulletin and lastly, we are reminding our Massachusetts agents that our December installment of Stewart Underwriters Talk Title is scheduled for 11:00 a.m. today. Tracie Kester will present a concise 30-minute presentation on Tenancies by the Entirety. A link to register is provided below.

We hope this information proves useful and, as always, we are happy to answer any questions you may have on these topics.



Recent Regulations Impacting Settlement Agents By: Rhonda L. Duddy, Esq., Massachusetts and New Hampshire Underwriting Counsel

There were several new developments in 2025 that demand close attention, particularly the new Massachusetts Non-Resident Filing Requirements and the new FinCEN Anti-Money Laundering (AML) rule. Also, there is a FIRPTA rule that will impact you in 2026. As discussed in last week's Mid-Week Update, we are waiting for the IRS to announce the date they will require FIRPTA withholding payments to be made electronically and will continue to keep you informed of any updates.

As a reminder, the Massachusetts Department of Revenue (DOR) has enacted 830 CMR 62B.2.4, a new regulation requiring tax withholding on sales of Massachusetts real estate with a gross sales price of \$1 million or more by non-resident sellers and applies to both residential and commercial transactions. This rule took effect November 1, 2025, and the DOR had originally stated they would not seek penalties for the first month, but they have now extended the waiver of any penalties imposed for an additional 30 days to December 31, 2025. Please note this grace period does not exempt attorneys from their obligation to collect, file, and withhold as required under the regulation. The DOR has simply provided

temporary relief from penalties - not a waiver of compliance. The regulation is fully in effect, and attorneys must continue to fulfill their responsibilities accordingly.

For more information, there are links below to Stewart Bulletins, REBA has also hosted webinars on the new regulations that can be viewed on their website, and the DOR has provided a helpful link which can be accessed here: [Withholding Requirement: Sale of Real Estate by Non-Residents | Mass.gov](#)

We're also reminding you of the new FinCEN AML rule which is scheduled to take effect on March 1, 2026. This regulation introduces new reporting requirements for non-financed residential property transfers to legal entities or trusts and it applies nationwide. Although similar to the current Geographic Targeting Orders which impact some jurisdictions, the FinCEN AML is distinct, and reporting and data collection requirements are different. It's important to note that the definition of residential property in the new rule is quite expansive and includes some vacant land and commercial properties. Similarly, the definition of non-financed includes more than just cash transactions. Transfers made directly to an individual are not covered by this rule. This rule describes the circumstances in which a report must be filed, who must file a report, what information must be provided, and when a report is due. FinCEN has created a dedicated webpage that provides reference materials and FAQ's. You may also sign up for news updates on their site to stay up to date on news and actions. Follow this link: <https://www.fincen.gov/rre>

Please note that FinCEN's Geographical Targeting Orders (GTO) remain in effect until February 28, 2026.

In addition to the links provided below, Stewart is sponsoring an upcoming ALTA webinar, free for ALTA members, which will take place at 1:00 p.m. on December 17. To register, follow this link: [ALTA - ALTA Insights: Collecting and Managing Data Under FinCEN's AML Rule](#)

Below are links to several Stewart Bulletins as well as Stewart's dedicated educational resource page:

[Bulletin: MA2025003](#)

[Bulletin: SLS2025009](#)

[Bulletin: SLS2025011](#)

<https://www.stewart.com/en/fincen-aml>

Stewart will continue to provide educational resources and guidance on navigating these requirements.



Tax Sales and Surplus Proceeds By: Eileen C. O'Shaughnessy
Esq., Rhode Island Underwriting Counsel

When it comes to tax sales, the landmark precedent of [Tyler v. Hennepin County](#) continues to draw debate and various interpretations in excess equity cases throughout the country. The Supreme Court announced on Oct. 3 that it would hear a Michigan case and determine if a fair foreclosure took place.

In [Pung v. Isabella County](#), a deceased Michigan resident's home was sold at tax sale for significantly less than its assessed value and then was resold at or about its assessed value. The loss of equity to the Estate was around \$118,000. The district court found that a taking had occurred and that the Estate was entitled to receive the surplus proceeds from the sale.

In another case involving property in Maryland, the U.S. District Court, District of Maryland denied the motions to dismiss of the Mayor and City Council of Baltimore, and found that the plaintiffs could proceed on their claim for the surplus proceeds of a tax sale. In [Edmonson Community Organization, Inc. v. Mayor and City Council of Baltimore](#), the court found that the plaintiffs convincingly argued that private tax purchasers were state actors since they performed public functions and benefitted from the government's actions. The claims were therefore approved under Tyler to proceed against both government actors and private parties.

This decision in Maryland follows the reasoning of the Nebraska Supreme Court in [Fair v. Continental Resources](#), which determined that private tax sale investors can be held liable under Tyler. That court stated these investors are "state actors" because their actions relate closely to the state's process of transferring property. The Nebraska ruling affirmed that private entities benefiting from state-authorized takings may share the state's constitutional responsibilities, a view also adopted by the Maryland court. This trend suggests courts are seeing tax sale investors as potential constitutional actors.

Thirty-six states and the federal government require excess value to be returned to the taxpayer. This aligns with state laws requiring that surplus proceeds from sheriff's and foreclosure sales be returned to the homeowner.

These opinions are important to the title industry because there are now potentially some tax sale procedures across the country that may be unconstitutional under the takings clause.

Given the extra hazardous risks associated with tax sales and foreclosure of tax liens, if you are asked to insure property that has been sold at a tax sale, you must receive approval from your Stewart underwriter prior to insuring.



Recently Issued Special Alerts and Underwriting Bulletins

All States: Special Alert SA2025334

Please contact Stewart if you are asked to issue policies involving the following persons:

Daniel Ramirez

Jihad Hakamy

To view this Bulletin follow this link: [Special Alert: SA2025334](#)



Upcoming Education:

Massachusetts Underwriters Talk Title Webinar – Tenancies by the Entirety – December 10, 2025.

Please join Tracie Kester, MA Associate Senior Underwriting Counsel, on Wednesday, December 10, 2025, at 11:00 AM for the next installment of our talk title series. In this webinar, Tracie and Associate Senior Underwriting Counsel Mark Jones will discuss Tenancies by the Entirety. To register follow this link: [Register Here](#)



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