

Dear Stewart Partners,

It's officially spring! The March equinox occurred last night at 11:06 P.M. EDT. Here's to hoping the winter weather is behind us. In this week's Mid-Week Update, we are providing information on a newly enacted law in NH relative to transfer on death deeds which will take effect on July 1, 2024. In addition, we are updating you on FinCEN's Notice of Proposed Rulemaking. Lastly, in case you missed it, we've included a link and a brief description of a Special Alert issued by Stewart on March 13, 2024.



**New Hampshire adopts the Uniform Real Property Transfer on Death Act (URPTODA)** By: Michelle Radie-Coffin, Esq., Associate Senior Underwriting Counsel, NH State Manager

New Hampshire becomes the 20th state to enact URPTODA. The law was enacted on February 21, 2024, and will become effective on July 1, 2024. The act allows an owner of real property to designate a beneficiary to automatically receive the real property upon the owner's death without a probate procedure. The real property passes by means of a recorded transfer on death (TOD) deed. During the owner's lifetime, the beneficiary of a TOD deed has no interest in the property and the owner retains full power to transfer or encumber the property or to revoke the deed.

The act has been codified under NH RSA Chapter 563-D and applies to a transfer on death deed made on or after July 1, 2024, by a transferor dying on or after July 1, 2024. The requirements of a transfer on death deed are set forth in 563-D:9 as shown below. In addition, the newly enacted law creates an optional form for both a transfer on death deed and a revocation of a transfer on death deed. 563-D:19, 563-D:20.

563-D:9 Requirements. A transfer on death deed is void unless it:

1. Meets the requirements set forth in RSA 477:3;
2. Bears the title 'Transfer on Death Deed';
3. States that the transfer to the designated beneficiary is to occur at the transferor's death; and
4. Is recorded:
  - Prior to the transferor's death;
  - Within 60 days following the date of execution; and
  - At length in the registry of deeds for the county or counties in which the real estate lies.

If the requirements of a TOD deed are met and there is no valid recorded revocation, then upon the death of the transferor a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, other interests to which the property is subject at the transferor's death, and claims of creditors of the estate of the transferor as provided in RSA 563-D:16. Given that there is a time period that must pass for both claims made by creditors and a time period to contest the validity of a TOD deed, you as a title agent will need to add certain requirements and exceptions to your title commitments and if necessary, to final title policies in transactions involving TOD deeds.

Please be on the lookout for future underwriting guidance prior to July 1, 2024. For your convenience we have included a link to this legislation.

[https://www.gencourt.state.nh.us/bill\\_status/billinfo.aspx?id=205&inflect=2](https://www.gencourt.state.nh.us/bill_status/billinfo.aspx?id=205&inflect=2)



### **Fincen's Anti-Money Laundering Rule – Notice of Proposed Rulemaking**

In our January Midweek Update, we discussed the Financial Crimes Enforcement Network's (FinCEN) Geographic Targeting Order (GTO) requirements for certain MA and CT policy issuing agents. The GTO requires that title agents report information to FinCEN about all-cash residential transactions in the amount of \$300,000.00 or more and involving legal entities and trusts. You can read the full article by clicking here: [January Mid-Week Update](#)

For many years, FinCEN has issued a series of these time-limited and geographically focused GTOs in lieu of more comprehensive regulations, however, on February 16, 2024 a Notice of Proposed Rulemaking issued by FinCEN entitled Anti-Money Laundering Regulations for Residential Real Estate Transfers was published in the Federal Register. The proposed rule expands on the GTOs and FinCEN has proposed the rule go into effect one year after the final rule is issued. Here's what you need to know:

- Unlike the GTOs, reporting under the proposal is not limited geographically
- There is no dollar threshold
- The person conducting the settlement will have to file a limited purpose suspicious activity report within 30 days of settlement
- FinCEN will develop a specific real estate report form for electronic filing which will address many of the issues the industry experienced with the GTO reporting
- Reporting cannot be avoided if the buyer does not purchase title insurance, which was a concern under the GTOs
- More information must be provided under the proposal than under the GTOs

The proposed rule is currently under a 60-day comment period which ends on April 16. Here is a link to the full text of the proposal: [Anti-Money Laundering Regulations for Residential Real Estate Transfers](#)

Currently, to help our agents who fall under the existing GTO, Stewart facilitates the filing of reportable transactions at no charge. Agents can complete the [ALTA Information Collection Form](#) and email it to [fincenreports@stewart.com](mailto:fincenreports@stewart.com) along with supporting

identification from the buyers. *For additional information or should you have any questions, please reach out to your local underwriting counsel or account representative. Remember to check future Midweek Updates for developments on FinCEN's proposed rule.*



**In Case You Missed It: SPECIAL ALERT – Chang Zhang, ET AL (SA20240080)**

On March 13, 2024, Stewart issued a Special Alert directed at all policy issuing offices. Specifically, it direct all issuing offices to cease accepting any orders or close any transactions involving **Chang Zhang** or **Thomas Coba** without the written approval of a Stewart Legal Services representative.

As a reminder, all issuing offices must search the names of parties to the transaction, including the seller, buyer, borrower, payoff lender, using Stewart's Special Alerts database, which may be accessed at <https://specialalerts.stewart.com/Search> this link can also be found on Virtual Underwriter.

To view the Special Alert, follow this link: [SA2024080 \(virtualunderwriter.com\)](https://virtualunderwriter.com/SA2024080)



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