

The Illinois Notary Public Act

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GR Review

The Illinois Notary Public Act was recently amended with the objective of reducing the incidence of real estate transaction and mortgage fraud in Cook County, Illinois. The amendments were effective June 1, 2009 and relate to notaries of certain documents of conveyance that transfer title to residential real property (a building or buildings located in Cook County, Illinois and containing 1 to 4 dwelling units, or an individual condominium unit).



Among other requirements, the amendment requires a notary to obtain the right thumbprint of grantees executing these conveyance documents.

A notary must now also create a Notarial Record for every document of conveyance and the notary's employer or principal must keep it in a secure place for 7 years as part of the employer's or principal's business records. Every Notarial Record is confidential and neither the original nor copies can be kept by the notary or kept in the file. The original can be delivered only upon receipt of a subpoena. If the notary does not have an employer or principal, the notary must send the Notarial Record to the Cook County Recorder within 14 days after the notary act is completed together with a \$5.00 fee.

For all notarial acts, the notary must confirm the identity of the party signing the document of conveyance. If the notary does not personally know the individual or if the individual is not identified upon the oath or affirmation of a credible witness personally known to the notary, then the notary must examine identification documents. The identification documents must have a photograph of the individual's face and the signature of the individual (e.g., a driver's license, state identification, or passport) and must not be expired.

You must also be aware of the provisions of the Illinois Biometric Information Privacy Act, which include a requirement that anyone who collects biometric information (which includes obtaining the thumbprint now required under the Illinois Notary Public Act) must give the individual a notice explaining why the information is being collected, how the information will be protected, and how and when it will be destroyed, and time parameters for the retention of that information.

If you have any questions about compliance with the new requirements of the Illinois Notary Public Act, please contact any of our attorneys in our Real Estate Practice Group.

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