



Cook County Recorder of Deeds
Karen A. Yarbrough

FOR IMMEDIATE RELEASE

May 31, 2013

FOR MORE INFORMATION

John Mirkovic

(312) 590-5013

John.Mirkovic@CookCountyIL.gov

**Recorder Yarbrough's Legislative Agenda to Help Victims Fight
Recording and Property Fraud Headed to Governor**

(CHICAGO) – Victims of property and recording fraud could soon have new tools to fight back and clear their titles thanks to the Illinois General Assembly's recent passage of Cook County Recorder Karen A. Yarbrough's anti-fraud legislative agenda.

Recording fraud is the recordation of a document known to be fraudulent in an attempt to create a "cloud on title," which is an irregularity in the chain of title that could negatively affect a property's value, or its transfer, sale or conveyance. Recording fraud can be blatant, such as an act of retribution towards a public official or judge, or done quietly in order to sell or obtain a mortgage on a property under false pretenses. Sadly, some instances happen when a victim hires a company that promises to assist in a looming foreclosure, but uses illegal means unbeknownst to the homeowner.

"The public recording system is designed to be an open system that gives certainty to real estate transactions, facilitating home ownership and commerce," Yarbrough said. "Unfortunately, some use that openness to abuse the system and victimize people. I am not comfortable sitting by while these crimes occur weekly, and I commend the General Assembly for allowing my office to be an advocate on behalf of victims of property fraud."

House Bill 2832 (Lang/Silverstein), which recently passed both Houses of the General Assembly, would allow County Recorders to help victims refer cases where there is evidence of recording fraud to an expedited administrative law review process. Once an administrative law judge rules that a document is fraudulent, the County Recorder will then place a notice in the chain of title that references the decision and notifies all who may be interested that the document in question should not be considered to affect the chain of title.

House Bill 2832 is needed because under the current system, the victim must navigate the chancery or circuit courts with an action to quiet title, usually lengthy and costly service. In addition to monetary costs, victims may also experience a delayed or lost real estate sale, or a missed opportunity to refinance at the time of their choosing. The expedited review process created by the bill would save the victims money and time, and could help save transactions that might otherwise be lost to uncertainty.

In addition to creating an expedited review, House Bill 2832 allows a County Recorder to work with law enforcement agencies to collaboratively investigate and prosecute fraudsters. Under the bill, the Illinois Department of Financial and Professional Regulation will be notified of suspected fraud so that they can use their investigatory authority to shut down those scammers who hide behind professional licenses to convey legitimacy to victims.

"We appreciate the efforts of Recorder of Deeds Yarbrough in joining us in trying to ensure that homeowners do not lose their homes due to fraudulent schemes," said Manuel Flores, Acting Secretary of the Illinois Department of Financial and Professional Regulation. "At a time when we are seeing an increase in mortgage and property fraud, it's critical to have legislation such as House Bill 2832 to strengthen the cooperation between local and state agencies in helping protect the rights of property owners throughout Illinois."

Because the impact of recording fraud is serious, often causing substantial financial damage to victims, Yarbrough believes it is time that the punishment match the severity of the crime. The second bill in Yarbrough's legislative agenda, **House Bill 2905** (Evans/Harmon), would increase the penalty for unlawful clouding of title to a Class 4 felony (from a misdemeanor) where the value of the cloud exceeds \$10,000, or if the clouding is a second or subsequent offense.

The third piece of the anti-fraud agenda, **House Bill 2269** (Evans/N. Harris) extends a provision of the state Notary Act that is about to expire that requires notaries in Cook County to keep and forward a notarial record of each document that transfers ownership of residential real property to the Cook County Recorder's office. This law helps provide information that could assist law enforcement with investigations into property or recording fraud. It also lets notaries know that these transactions are held to a high standard, and that they should exercise all due care in assuring documents and identification presented to them are legitimate.

All three bills have passed both Houses of the General Assembly and await the Governor's signature before becoming law.

###