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March 28, 2009

## Thumbs down on offensive Illinois law

A new American law set to take effect June 1, 2009 will require anyone selling a residential property in Cook County, Ill. which includes Chicago to provide a thumbprint or fingerprint.

Under the cumbersome moniker of the Cook County Residential Real Estate Conveyance "Thumbprint Pilot Project" Public Act 95-988, the unstated purpose of the law is to combat real estate and mortgage fraud.

The legislation was quietly passed last October while public attention was distracted by the election campaign of Barack Obama and an ongoing corruption investigation, which eventually led to the removal of governor Rod Blagojevich.

In Illinois, unlike Ontario, signatures on transfers of real property must be witnessed by a notary public. Under the new law, notaries will be required to create a record of the signatures, which includes the names, addresses and photo ID of the parties to the document, and a thumbprint or fingerprint of the property seller.

The form is stored for seven years by either the notary's employer, or by the Cook County recorder of deeds. The law authorizes a filing fee of \$5, and a notary fee of up to \$25.

When word of the new law hit the mainstream media earlier this month, the blogosphere went into overdrive over the perceived civil rights infringements.

Glenn Beck, host of an interview program on Fox News, blasted the fingerprint law. "Let me see if I have this right," he said. "Welcome to America. We can't fingerprint anybody who's coming into this country because that would be offensive. But if you own property in Chicago and you want to sell it, guess who is going to get fingerprinted? Who has to get fingerprinted? You do."

"We can't take DNA samples from killers or rapists, but you can have your fingerprint taken if you want to sell your house. What is happening to this country?"

I agree with Beck. My own take is that Illinois got it all wrong. By the time a transaction is revealed as fraudulent, the fraud artist has had weeks or months to disappear.

As well, my Internet research reveals that a computer and simple household materials like Play-Doh or Super Glue can be used to create fake fingerprints.

The Illinois law does nothing to capture the scenario where the seller is perfectly innocent, but the buyer is the crook. I much prefer the Canadian approach.

At the instigation of the Canadian government, in an effort to combat money laundering, law societies across Canada have introduced requirements for obtaining client identification.

In Ontario, these rules came into effect at the end of last year and require lawyers to maintain records of identity documents for all clients, not just those in real estate transactions.

In addition, on March 31 last year, the Ontario government and the Law Society of Upper Canada introduced rules that grant lawyers the exclusive right to access the land registration system to transfer title to real estate. As gatekeepers, we have a strict set of rules to follow in each land transfer.

Our rules are not nearly as intrusive as the Illinois requirement, which treats law-abiding citizens like criminals.

Ontario's anti-fraud title registration procedures seem to be working well without notarized signatures and thumbprints. The legislators in Illinois could learn a great deal from us.