



in cases of real estate title fraud, have the courts generally held that real estate brokers were liable for not adequately confirming the true owner of the property prior to listing it? ^

Yes, courts have increasingly held that real estate brokers can be liable in cases of title fraud if they fail to perform reasonable due diligence in identifying the true owner of a property before listing it. While listing agents previously relied primarily on seller representations, legal standards and ethical obligations are shifting, often making them liable if they fail to investigate "red flags" or act in reckless disregard for the truth. [Rhoades McKee PC +4](#)

Broker Liability Trends

Courts and legal practitioners generally hold that brokers can be held liable for:

- **Negligent Misrepresentation:** Listing a property as belonging to a "seller" without performing reasonable steps to verify their identity and ownership, particularly when the seller cannot be met in person or is evasive.
- **Breach of Fiduciary Duty:** Failing to disclose known or "reasonably discoverable" material facts, including discrepancies in ownership records.
- **Reckless Disregard:** Ignoring "red flags" (e.g., remote-only communication, cash-only demands, rapid sales, vacant property) that indicate a scammer is impersonating the owner. [www.rmaaresources.com +4](http://www.rmaaresources.com)

Remember

The WVREC's authority is strictly limited to enforcing license law, which is administrative law, not criminal law. *The WVREC cannot arrest anyone.*

We do not oversee all real estate practice aspects, including county clerks, attorneys, closing agents, or title searches. Furthermore, we cannot provide legal advice, such as researching encroachments or validating mineral rights.

We do want to help where we can.

The following suggestions are provided to licensees for guidance.

Spotting Potential Title Fraud



West Virginia
Real Estate Commission



Verify Identity

Request an in-person or virtual meeting. Always verify government-issued ID and search for a recent picture of the seller.



Check Property Status

Be cautious with vacant lots or rental properties that are free of mortgages or liens, as these are primary targets.



Watch for Red Flags

Alert: Seller wants listing below market value, demands cash buyers only, or refuses to sign in person.

Key Prevention Strategies for Licensees

- Never allow a seller to arrange their own notary closing; fraudulent documents are common in this scheme.
- Always use trusted title companies and attorneys for the exchange of closing documents and funds.
- Be skeptical if all communication is electronic and the seller avoids in-person contact (including virtual meetings).
- Advise clients to verify wiring instructions by phone with the settlement attorney or title company before sending funds.

Title Fraud - Tools & Resources



- Lexis/Nexis
- Forewarn
- Tether RE (\$99/year)
- Published articles from NAR
- American Land Title Association (ALTA) articles
(<https://www.alta.org/business-operations/operations/seller-impersonation-fraud>)
- Advisory from US Secret Service (first page of WVREC website)
- Local law enforcement
- Talk to your representatives about implementing something like Georgia's Filing Activity Notification System in WV
(<https://fans.gscca.org/>)