



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 26, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 465, an Act relating to identity theft protection by requiring reporting and by making changes to the duties of county recorders, the fees collected by the county recorders, and the county land record information system.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Culver", with a long horizontal flourish extending to the right.

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 465

AN ACT

RELATING TO IDENTITY THEFT PROTECTION BY REQUIRING REPORTING AND BY MAKING CHANGES TO THE DUTIES OF COUNTY RECORDERS, THE FEES COLLECTED BY THE COUNTY RECORDERS, AND THE COUNTY LAND RECORD INFORMATION SYSTEM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 331.601A, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Batch basis" means the delivery of an accumulation of electronic documents or records recorded or maintained by the county recorder.

NEW SUBSECTION. 1A. "Electronic document" means a document or instrument that is received, processed, disseminated, or maintained in an electronic format. The submission of an electronic document through the county land record information system electronic submission service shall be equivalent to delivery of a document through the United States postal service or by personal delivery at designated offices in each county. Persons who submit electronic documents for recording are responsible for ensuring that the electronic documents comply with all requirements for recording.

Sec. 2. Section 331.603, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 5. a. The governing board of the county land record information system shall not enter into an agreement to provide access to electronic documents or records on a batch basis. The county recorder may collect reasonable fees for access to electronic documents and records pursuant to an agreement. The fees shall not exceed the actual cost of providing access to the electronic documents and records.

"Actual cost" means only those expenses directly attributable to providing access to electronic documents and records.

"Actual cost" shall not include costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the county recorder or the county land record information system.

b. Electronic documents and records made available under this subsection shall not include personally identifiable information and shall be subjected to a redaction process prior to the transfer of the electronic documents or records to another person pursuant to an agreement under paragraph "a".

Sec. 3. Section 331.604, subsection 3, Code 2009, as amended by 2009 Iowa Acts, Senate File 288, section 6, is amended to read as follows:

3. a. The Each county shall participate in the county land record information system and shall comply with the policies and procedures established by the governing board of the county land record information system.

b. (1) For the period beginning July 1, 2004, and ending June 30, 2009, the county recorder shall also collect a fee of one dollar for each recorded transaction, regardless of the number of pages, for which a fee is paid pursuant to subsection 1 to be used for the purpose set forth in paragraph "e" "d".

(2) For the period beginning July 1, 2009, and ending June 30, 2011, the recorder shall also collect a fee of three dollars for each recorded transaction, regardless of the number of pages, for which a fee is paid pursuant to subsection 1 to be used for the following purposes:

(a) Maintaining the statewide internet website and the county land record information system.

(b) Integrating information contained in documents and records maintained by the recorder and other land record information from other sources with the county land record information system.

(c) Implementing and maintaining a process for redacting personally identifiable information contained in electronic documents that are displayed for public access through an internet website or that are transferred to another person.

(3) Beginning July 1, 2011, the recorder shall also collect a fee of one dollar for each recorded transaction,

regardless of the number of pages, for which a fee is paid pursuant to subsection 1 to be used for the purposes in subparagraph (2) and for the following purposes:

(a) Establishing and implementing standards for recording, processing, and archiving electronic documents and records.

(b) Expanding access to records by encouraging electronic indexing and scanning of documents and instruments recorded in prior years.

(4) Notwithstanding subparagraph (2), the fee collected by the recorder under this subsection for recording a plat of survey is one dollar, regardless of the number of pages. For purposes of this subparagraph, "plat of survey" means the same as defined in section 355.1, subsection 9.

(5) Fees collected in excess of the amount needed for the purposes specified in this subsection shall be used by the county land record information system to reduce or eliminate service fees for electronic submission of documents and instruments.

~~b-~~ c. The county treasurer, on behalf of the recorder, shall establish and maintain a county recorder's electronic transaction fund into which all moneys collected pursuant to paragraph "a" "b" shall be deposited. Interest earned on moneys deposited in this fund shall be computed based on the average monthly balance in the fund and shall be credited to the county recorder's electronic transaction fund.

~~e-~~ d. The local government electronic transaction fund is established in the office of the treasurer of state under the control of the treasurer of state. Moneys deposited into the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the local government electronic transaction fund shall be credited to the fund. Moneys in the local government electronic transaction fund are not subject to transfer, appropriation, or reversion to any other fund, or any other use except as provided in this ~~paragraph-~~"e" subsection. On a monthly basis, the county treasurer shall ~~pay each-fee-collected-pursuant-to-paragraph~~ "a" the fees deposited into the county recorder's electronic transaction fund to the treasurer of state for deposit into the local government electronic transaction fund. Moneys credited to the local government electronic transaction fund are appropriated to the treasurer of state for the payment of claims approved by the governing board of the county land

record information system. Expenditures Except as otherwise provided in this subsection, expenditures from the fund shall be for the purpose of planning and implementing electronic recording and electronic transactions in each county, and developing county and statewide internet websites to provide electronic access to records and information, and to pay the ongoing costs of integrating and maintaining the statewide internet website.

~~d.~~ e. The recorder shall make available any information required by the county auditor or auditor of state concerning the fees collected under this subsection for the purposes of determining the amount of fees collected and the uses for which such fees are expended.

Sec. 4. Section 331.605B, subsection 2, Code 2009, is amended to read as follows:

2. A recorder or the governing board of the county land record information system shall collect only statutorily authorized fees for land records management. A recorder or the governing board of the county land record information system shall not collect a fee for viewing, accessing, or printing documents in the county land record information system unless specifically authorized by statute. However, a recorder or the governing board of the county land record information system may collect actual third-party fees associated with accepting and processing statutorily authorized fees, including credit card fees, treasury management fees, and other transaction fees required to enable electronic payment. For the purposes of this subsection, the term "third-party" does not include the county land record information system, the Iowa state association of counties, or any of the association's affiliates.

Sec. 5. Section 331.606, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The recorder shall permanently archive an unaltered version of each recorded document or instrument. A document or instrument may be archived in its original format, as an electronic document, or in another format suitable for preserving information in the document or instrument. A person may view and copy an original or unaltered document or instrument in the office of the recorder.

Sec. 6. Section 331.606A, subsection 1, paragraph c, Code 2009, is amended to read as follows:

c. "Redact" or "redaction" means the process of permanently removing all or a portion of personally identifiable information from documents.

Sec. 7. Section 331.606A, subsection 2, Code 2009, is amended to read as follows:

2. INCLUSION OF PERSONALLY IDENTIFIABLE INFORMATION. The preparer of a document shall not include an individual's personally identifiable information in a document that is prepared and presented for recording in the office of the recorder. This subsection shall not apply to documents that were executed by an individual prior to July 1, 2007. ~~Unless provided otherwise by law, all documents described by this section are subject to inspection and copying by the public.~~

Sec. 8. Section 331.606A, subsection 3, Code 2009, is amended by striking the subsection and inserting in lieu thereof the following:

3. REDACTION FROM ELECTRONIC DOCUMENTS. Personally identifiable information that is contained in electronic documents that are displayed for public access on a website, or which are transferred to any person, shall be redacted prior to displaying or transferring the documents. Each recorder that displays electronic documents and the county land record information system that displays electronic documents on behalf of a county shall implement a system for redacting personally identifiable information. The recorder and the governing board of the county land record information system shall establish a procedure by which individuals may request that personally identifiable information contained in an electronic document displayed on a website be redacted, at no fee to the requesting individual. The requirements of this subsection shall be fully implemented not later than December 31, 2011.

Sec. 9. Section 331.606A, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. DISSEMINATION OF DOCUMENTS. Persons who have contracted with a county recorder or the governing board of the county land record information system to redact personally identifiable information from electronic documents pursuant to subsection 3 shall not sell, transfer, or otherwise disseminate the electronic documents in an unaltered or redacted form, except as provided for in the contract.

Sec. 10. Section 331.606A, subsection 5, Code 2009, is amended to read as follows:

5. APPLICABILITY.

a. ~~This section~~ Subsection 2 shall not apply to a preparer of a state or federal tax lien or release, a military separation or discharge record, or a death certificate that is prepared for recording in the office of county recorder.

b. Subsection 3 shall not apply to a military separation or discharge record, a birth record, a death certificate, or marriage certificate unless such record or certificate is incorporated within another document or instrument that is recorded and displayed for public access on a website.

c. If a military separation or discharge record or a death certificate is recorded in the office of the county recorder, the military separation or discharge record or the death certificate shall not be ~~accessible through the internet~~ displayed for public access on an internet website, public access terminal or other medium, or be transferred to any person.

Sec. 11. Section 331.606A, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 6. LIMITATION OF LIABILITY. The county land record information system is a unit of local government for purposes of chapter 670, relating to tort liability of governmental subdivisions. However, persons who have contracted with the governing board of the county land record information system to carry out the duties of the board are not employees for purposes of chapter 670, relating to tort liability of governmental subdivisions.

Sec. 12. Section 331.606B, subsection 1, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Each document or instrument presented for recording shall meet the requirements of section 331.606A, subsection 2.

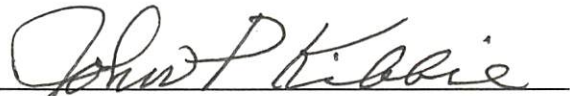
Sec. 13. REPORT TO THE GENERAL ASSEMBLY. On or before January 1, 2012, the governing board of the county land record information system shall submit a report to the general assembly. The report shall include a summary of the actions taken by the county recorders and the county land record information system relating to the redaction of personally identifiable information, a detailed financial accounting of the county land record information system, a detailed summary

of expenditures made from the local government electronic transaction fund, and an analysis and recommendation regarding the continuance or discontinuance of the fee collected under section 331.604, subsection 3.

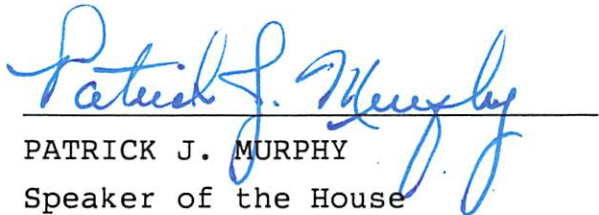
Sec. 14. Section 598.21, subsection 2, Code 2009, as amended by 2009 Iowa Acts, Senate File 288, section 36, is amended to read as follows:

2. DUTIES OF COUNTY RECORDER. The county recorder shall record each quitclaim deed or change of title and shall collect the ~~fees~~ fee specified in section 331.507, subsection 2, paragraph "a", and the ~~fee~~ fees specified in section 331.604.

Sec. 15. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.



JOHN P. KIBBIE
President of the Senate



PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 465, Eighty-third General Assembly.



MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 26th, 2009



CHESTER J. CULVER
Governor