

# House File 813 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 506)  
(SUCCESSOR TO HSB 157)

(COMPANION TO SF 465)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to identity theft protection by requiring  
2 reporting and by making changes to the duties of county  
3 recorders, the fees collected by the county recorders, and the  
4 county land record information system.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 1556HZ 83  
7 md/sc/5

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1 1 Section 1. Section 331.601A, Code 2009, is amended by  
1 2 adding the following new subsections:  
1 3 NEW SUBSECTION. 0A. "Batch basis" means the delivery of  
1 4 an accumulation of electronic documents or records recorded or  
1 5 maintained by the county recorder.

1 6 NEW SUBSECTION. 1A. "Electronic document" means a  
1 7 document or instrument that is received, processed,  
1 8 disseminated, or maintained in an electronic format. The  
1 9 submission of an electronic document through the county land  
1 10 record information system electronic submission service shall  
1 11 be equivalent to delivery of a document through the United  
1 12 States postal service or by personal delivery at designated  
1 13 offices in each county. Persons who submit electronic  
1 14 documents for recording are responsible for ensuring that the  
1 15 electronic documents comply with all requirements for  
1 16 recording.

1 17 Sec. 2. Section 331.603, Code 2009, is amended by adding  
1 18 the following new subsection:

1 19 NEW SUBSECTION. 5. a. The governing board of the county  
1 20 land record information system shall not enter into an  
1 21 agreement to provide access to electronic documents or records  
1 22 on a batch basis. The county recorder may collect reasonable  
1 23 fees for access to electronic documents and records pursuant  
1 24 to an agreement. The fees shall not exceed the actual cost of  
1 25 providing access to the electronic documents and records.  
1 26 "Actual cost" means only those expenses directly attributable  
1 27 to providing access to electronic documents and records.  
1 28 "Actual cost" shall not include costs such as employment  
1 29 benefits, depreciation, maintenance, electricity, or insurance  
1 30 associated with the administration of the office of the county  
1 31 recorder or the county land record information system.

1 32 b. Electronic documents and records made available under  
1 33 this subsection shall not include personally identifiable  
1 34 information and shall be subjected to a redaction process  
1 35 prior to the transfer of the electronic documents or records  
2 1 to another person pursuant to an agreement under paragraph  
2 2 "a".

2 3 Sec. 3. Section 331.605B, subsection 2, Code 2009, is  
2 4 amended to read as follows:

2 5 2. A recorder or the governing board of the county land  
2 6 record information system shall collect only statutorily

2 7 authorized fees for land records management. A recorder or  
2 8 the governing board of the county land record information  
2 9 system shall not collect a fee for viewing, accessing, or  
2 10 printing documents in the county land record information  
2 11 system unless specifically authorized by statute. However, a  
2 12 recorder or the governing board of the county land record  
2 13 information system may collect actual third-party fees  
2 14 associated with accepting and processing statutorily

2 15 authorized fees, including credit card fees, treasury  
2 16 management fees, and other transaction fees required to enable  
2 17 electronic payment. For the purposes of this subsection, the  
2 18 term "third-party" does not include the county land record  
2 19 information system, the Iowa state association of counties, or  
2 20 any of the association's affiliates.

2 21 Sec. 4. Section 331.605C, Code 2009, is amended to read as  
2 22 follows:

2 23 331.605C ELECTRONIC TRANSACTION FEE == AUDIT.

2 24 1. ~~For the fiscal year beginning July 1, 2003, and ending~~  
2 25 ~~June 30, 2004, the recorder shall collect a fee of five~~  
2 26 ~~dollars for each recorded transaction, regardless of the~~  
2 27 ~~number of pages, for which a fee is paid pursuant to section~~  
2 28 ~~331.604 to be used for the purposes of planning and~~  
2 29 ~~implementing electronic recording and electronic transactions~~  
2 30 ~~in each county and developing county and statewide internet~~  
2 31 ~~websites to provide electronic access to records and~~  
2 32 ~~information. Each county shall participate in the county land~~  
2 33 ~~record information system and shall comply with the policies~~  
2 34 ~~and procedures established by the governing board of the~~  
2 35 ~~county land record information system.~~

3 1 2. a. ~~Beginning For the period beginning July 1, 2004,~~  
3 2 ~~and ending June 30, 2009, the recorder shall collect a fee of~~  
3 3 ~~one dollar for each recorded transaction, regardless of the~~  
3 4 ~~number of pages, for which a fee is paid pursuant to section~~  
3 5 ~~331.604 to be used for the purpose set forth in subsection 4.~~

3 6 b. ~~For the period beginning July 1, 2009, and ending June~~  
3 7 ~~30, 2011, the recorder shall collect a fee of three dollars~~  
3 8 ~~for each recorded transaction, regardless of the number of~~  
3 9 ~~pages, for which a fee is paid pursuant to section 331.604 to~~  
3 10 ~~be used for the following purposes:~~

3 11 (1) ~~Maintaining the statewide internet website and the~~  
3 12 ~~county land record information system.~~

3 13 (2) ~~Integrating information contained in documents and~~  
3 14 ~~records maintained by the recorder and other land record~~  
3 15 ~~information from other sources with the county land record~~  
3 16 ~~information system.~~

3 17 (3) ~~Implementing and maintaining a process for redacting~~  
3 18 ~~personally identifiable information contained in electronic~~  
3 19 ~~documents that are displayed for public access through an~~  
3 20 ~~internet website or that are transferred to another person.~~

3 21 c. ~~Beginning July 1, 2011, the recorder shall collect a~~  
3 22 ~~fee of one dollar for each recorded transaction, regardless of~~  
3 23 ~~the number of pages, for which a fee is paid pursuant to~~  
3 24 ~~section 331.604 to be used for the purposes in paragraph "b"~~  
3 25 ~~and for the following purposes:~~

3 26 (1) ~~Establishing and implementing standards for recording,~~  
3 27 ~~processing, and archiving electronic documents and records.~~

3 28 (2) ~~Expanding access to records by encouraging electronic~~  
3 29 ~~indexing and scanning of documents and instruments recorded in~~  
3 30 ~~prior years.~~

3 31 d. ~~Notwithstanding paragraph "b", the fee collected by the~~  
3 32 ~~recorder under this section for recording a plat of survey is~~  
3 33 ~~one dollar, regardless of the number of pages. For purposes~~  
3 34 ~~of this paragraph, "plat of survey" means the same as defined~~  
3 35 ~~in section 355.1, subsection 9.~~

4 1 e. ~~Fees collected in excess of the amount needed for the~~  
4 2 ~~purposes specified in this section shall be used by the county~~  
4 3 ~~land record information system to reduce or eliminate service~~  
4 4 ~~fees for electronic submission of documents and instruments.~~

4 5 3. The county treasurer, on behalf of the recorder, shall  
4 6 establish and maintain a county recorder's electronic  
4 7 transaction fund into which all moneys collected pursuant to  
4 8 ~~subsections 1 and subsection 2~~ shall be deposited. Interest  
4 9 earned on moneys deposited in this fund shall be computed  
4 10 based on the average monthly balance in the fund and shall be  
4 11 credited to the county recorder's electronic transaction fund.

4 12 4. The local government electronic transaction fund is  
4 13 established in the office of the treasurer of state under the  
4 14 control of the treasurer of state. Moneys deposited into the  
4 15 fund are not subject to section 8.33. Notwithstanding section  
4 16 12C.7, interest or earnings on moneys in the local government  
4 17 electronic transaction fund shall be credited to the fund.  
4 18 Moneys in the local government electronic transaction fund are  
4 19 not subject to transfer, appropriation, or reversion to any  
4 20 other fund, or any other use except as provided in this  
4 21 subsection. On a monthly basis, the county treasurer shall  
4 22 ~~pay each fee collected pursuant to subsection 2 the fees~~  
4 23 ~~deposited in the county recorder's electronic transaction fund~~  
4 24 ~~to the treasurer of state for deposit into the local~~  
4 25 ~~government electronic transaction fund. Moneys credited to~~

4 26 the local government electronic transaction fund are  
4 27 appropriated to the treasurer of state to be used for the  
4 28 purpose of paying the ongoing costs of integrating and  
4 29 maintaining the statewide internet website ~~developed and~~  
~~4 30 implemented under subsection 1 to provide electronic access to~~  
4 31 records and information.

4 32 5. The recorder shall make available any information  
4 33 required by the county auditor or auditor of state concerning  
4 34 the fees collected under this section for the purposes of  
4 35 determining the amount of fees collected and the uses for  
5 1 which such fees are expended.

5 2 Sec. 5. Section 331.606, Code 2009, is amended by adding  
5 3 the following new subsection:

5 4 NEW SUBSECTION. 4. The recorder shall permanently archive  
5 5 an unaltered version of each recorded document or instrument.  
5 6 A document or instrument may be archived in its original  
5 7 format, as an electronic document, or in another format  
5 8 suitable for preserving information in the document or  
5 9 instrument. A person may view and copy an original or  
5 10 unaltered document or instrument in the office of the  
5 11 recorder.

5 12 Sec. 6. Section 331.606A, subsection 1, paragraph c, Code  
5 13 2009, is amended to read as follows:

5 14 c. "Redact" or "redaction" means the process of  
5 15 permanently removing all or a portion of personally  
5 16 identifiable information from documents.

5 17 Sec. 7. Section 331.606A, subsection 2, Code 2009, is  
5 18 amended to read as follows:

5 19 2. INCLUSION OF PERSONALLY IDENTIFIABLE INFORMATION. The  
5 20 preparer of a document shall not include an individual's  
5 21 personally identifiable information in a document that is  
5 22 prepared and presented for recording in the office of the  
5 23 recorder. This subsection shall not apply to documents that  
5 24 were executed by an individual prior to July 1, 2007. ~~Unless~~  
~~5 25 provided otherwise by law, all documents described by this~~

~~5 26 section are subject to inspection and copying by the public.~~

5 27 Sec. 8. Section 331.606A, subsection 3, Code 2009, is  
5 28 amended by striking the subsection and inserting in lieu  
5 29 thereof the following:

5 30 3. REDACTION FROM ELECTRONIC DOCUMENTS. Personally  
5 31 identifiable information that is contained in electronic  
5 32 documents that are displayed for public access on a website,  
5 33 or which are transferred to any person, shall be redacted  
5 34 prior to displaying or transferring the documents. Each  
5 35 recorder that displays electronic documents and the county  
6 1 land record information system that displays electronic  
6 2 documents on behalf of a county shall implement a system for  
6 3 redacting personally identifiable information. The recorder  
6 4 and the governing board of the county land record information  
6 5 system shall establish a procedure by which individuals may  
6 6 request that personally identifiable information contained in  
6 7 an electronic document displayed on a website be redacted, at  
6 8 no fee to the requesting individual. The requirements of this  
6 9 subsection shall be fully implemented not later than December  
6 10 31, 2011.

6 11 Sec. 9. Section 331.606A, subsection 5, Code 2009, is  
6 12 amended to read as follows:

6 13 5. APPLICABILITY.

6 14 a. ~~This section~~ Subsection 2 shall not apply to a preparer  
6 15 of a state or federal tax lien or release, a military  
6 16 separation or discharge record, or a death certificate that is  
6 17 prepared for recording in the office of county recorder.

6 18 b. Subsection 3 shall not apply to a military separation  
~~6 19 or discharge record, a birth record, a death certificate, or~~  
~~6 20 marriage certificate unless such record or certificate is~~  
~~6 21 incorporated within another document or instrument that is~~  
~~6 22 recorded and displayed for public access on a website.~~

6 23 c. If a military separation or discharge record or a death  
6 24 certificate is recorded in the office of the county recorder,  
6 25 the military separation or discharge record or the death  
6 26 certificate shall not be ~~accessible through the internet~~  
~~6 27 displayed for public access on an internet website, public~~  
~~6 28 access terminal or other medium, or be transferred to any~~  
~~6 29 person.~~

6 30 Sec. 10. Section 331.606A, Code 2009, is amended by adding  
6 31 the following new subsection:

6 32 NEW SUBSECTION. 6. LIMITATION OF LIABILITY. The county  
6 33 land record information system is a unit of local government  
6 34 for purposes of chapter 670, relating to tort liability of  
6 35 governmental subdivisions. However, persons who have  
7 1 contracted with the governing board of the county land record

7 2 information system to carry out the duties of the board are  
7 3 not employees for purposes of chapter 670, relating to tort  
7 4 liability of governmental subdivisions.  
7 5 Sec. 11. Section 331.606B, subsection 1, Code 2009, is  
7 6 amended by adding the following new paragraph:  
7 7 NEW PARAGRAPH. g. Each document or instrument presented  
7 8 for recording shall meet the requirements of section 331.606A,  
7 9 subsection 2.

7 10 Sec. 12. REPORT TO THE GENERAL ASSEMBLY. On or before  
7 11 January 1, 2012, the governing board of the county land record  
7 12 information system shall submit a report to the general  
7 13 assembly. The report shall include a summary of the actions  
7 14 taken by the county recorders and the county land record  
7 15 information system relating to the redaction of personally  
7 16 identifiable information, a detailed financial accounting of  
7 17 the county land record information system, a detailed summary  
7 18 of expenditures made from the local government electronic  
7 19 transaction fund, and an analysis and recommendation regarding  
7 20 the continuance or discontinuance of the fee collected under  
7 21 section 331.605C, subsection 2.

7 22 Sec. 13. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
7 23 3, shall not apply to this Act.

#### 7 24 EXPLANATION

7 25 This bill relates to the duties and authority of county  
7 26 recorders and the county land record information system.

7 27 The bill requires each county to participate in the county  
7 28 land record information system and comply with the policies  
7 29 and procedures established by the governing board of the  
7 30 county land record information system.

7 31 The bill increases the electronic transaction fee from \$1  
7 32 per recorded transaction to \$3 for transactions recorded  
7 33 between July 1, 2009, and June 30, 2011. However, the bill  
7 34 provides that the electronic transaction fee for recording a  
7 35 plat of survey shall continue to be \$1. The bill also  
8 1 provides that the electronic transaction fee for transactions  
8 2 recorded on or after July 1, 2011, is lowered to \$1. The bill  
8 3 specifies the purposes for which electronic transaction fees  
8 4 may be used and provides that fees collected in excess of the  
8 5 amount needed shall be used by the county land record  
8 6 information system to reduce or eliminate service fees for  
8 7 electronic submission services.

8 8 The bill prohibits the governing board of the county land  
8 9 record information system from entering into an agreement to  
8 10 provide access to electronic documents or records on a batch  
8 11 basis, as defined in the bill. The bill authorizes a county  
8 12 recorder to provide access to electronic documents and records  
8 13 pursuant to an agreement and to collect fees for such access.  
8 14 Fees collected pursuant to such an agreement must be  
8 15 reasonable and shall not exceed the actual cost of providing  
8 16 access to the electronic documents and records.

8 17 The bill amends the definition of "redact" or "redaction"  
8 18 to mean the process of permanently removing all or a portion  
8 19 of personally identifiable information from documents and  
8 20 requires that personally identifiable information contained in  
8 21 electronic documents that are displayed for public access on a  
8 22 website, or which are transferred to any person, be redacted  
8 23 prior to displaying or transferring the documents.

8 24 The bill also requires each county recorder that displays  
8 25 electronic documents and the county land record information  
8 26 system that displays electronic documents on behalf of a  
8 27 county to implement a system for redacting personally  
8 28 identifiable information and to establish a procedure by which  
8 29 individuals may request that personally identifiable  
8 30 information contained in an electronic document displayed on a  
8 31 website be redacted, at no fee to the requesting individual.  
8 32 The bill requires procedures for redaction to be fully  
8 33 implemented by December 31, 2011. The bill excludes certain  
8 34 recorded documents and certificates from the prohibition on  
8 35 inclusion of personally identifiable information and the  
9 1 requirements for redaction of such information.

9 2 The bill provides that a county recorder shall refuse any  
9 3 document or instrument presented for recording that contains  
9 4 personally identifiable information, unless the person pays an  
9 5 additional recording fee of \$10 per document or instrument.

9 6 The bill requires a county recorder to permanently archive  
9 7 an unaltered version of each recorded document or instrument  
9 8 and provides that such documents and instruments may be viewed  
9 9 or copied in the office of the recorder.

9 10 The bill designates the county land record information  
9 11 system as a unit of local government for purposes of Code  
9 12 chapter 670, relating to tort liability of governmental

9 13 subdivisions. However, the bill excludes persons who have  
9 14 contracted with the governing board of the county land record  
9 15 information system from the liability provisions of Code  
9 16 chapter 670.

9 17 The bill requires the governing board of the county land  
9 18 record information system to submit a report to the general  
9 19 assembly on or before January 1, 2012. The report is required  
9 20 to include information related to redaction efforts, a  
9 21 financial accounting of the county land record information  
9 22 system, a summary of expenditures from the local government  
9 23 electronic transaction fund, and an analysis and  
9 24 recommendation regarding the continuance or discontinuance of  
9 25 the electronic transaction fee collected under Code section  
9 26 331.605C.

9 27 The bill may include a state mandate as defined in Code  
9 28 section 25B.3. The bill makes inapplicable Code section  
9 29 25B.2, subsection 3, which would relieve a political  
9 30 subdivision from complying with a state mandate if funding for  
9 31 the cost of the state mandate is not provided or specified.  
9 32 Therefore, political subdivisions are required to comply with  
9 33 any state mandate included in the bill.

9 34 LSB 1556HZ 83

9 35 md/sc/5