

Senate File 465 - Introduced

SENATE FILE _____
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 378)
(SUCCESSOR TO SSB 1212)

Passed Senate, Date _____ Passed House, 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 1556SZ 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.

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