

# Senate Study Bill 1212

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
LOCAL GOVERNMENT BILL BY  
CHAIRPERSON QUIRMBACH)

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 making changes to  
2 the duties of county recorders, the fees collected by the  
3 county recorders, and the county land record information  
4 system.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 1556SC 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 recorder or the governing  
1 20 board of the county land record information system may enter  
1 21 into an agreement to provide access to electronic documents or  
1 22 records on a batch basis. The county recorder or the  
1 23 governing board of the county land record information system  
1 24 may collect reasonable fees for access to electronic documents  
1 25 and records pursuant to such an agreement.  
1 26 b. Electronic documents and records made available under  
1 27 this subsection shall not include personally identifiable  
1 28 information and shall be subjected to a redaction process  
1 29 prior to the transfer of the electronic documents or records  
1 30 to another person pursuant to an agreement under paragraph  
1 31 "a".

1 32 c. Persons with access to electronic documents and records  
1 33 shall certify in writing that they will not provide such  
1 34 documents or records to any third party without the permission  
1 35 of the county recorder or the governing board of the county  
2 1 land record information system, as applicable.

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

2 4 2. A recorder or the governing board of the county land  
2 5 record information system shall collect only statutorily  
2 6 authorized fees for land records management. A recorder or  
2 7 the governing board of the county land record information  
2 8 system shall not collect a fee for viewing, accessing, or  
2 9 printing documents in the county land record information  
2 10 system unless specifically authorized by statute. However, a  
2 11 recorder or the governing board of the county land record  
2 12 information system may collect actual third-party fees  
2 13 associated with accepting and processing statutorily  
2 14 authorized fees, including credit card fees, treasury  
2 15 management fees, and other transaction fees required to enable  
2 16 electronic payment. For the purposes of this subsection, the

2 17 term "third=party" does not include the county land record  
2 18 information system, the Iowa state association of counties, or  
2 19 any of the association's affiliates.  
2 20 Sec. 4. Section 331.605C, Code 2009, is amended to read as  
2 21 follows:  
2 22 331.605C ELECTRONIC TRANSACTION FEE == AUDIT.  
2 23 1. ~~For the fiscal year beginning July 1, 2003, and ending~~  
2 24 ~~June 30, 2004, the recorder shall collect a fee of five~~  
2 25 ~~dollars for each recorded transaction, regardless of the~~  
2 26 ~~number of pages, for which a fee is paid pursuant to section~~  
2 27 ~~331.604 to be used for the purposes of planning and~~  
2 28 ~~implementing electronic recording and electronic transactions~~  
2 29 ~~in each county and developing county and statewide internet~~  
2 30 ~~websites to provide electronic access to records and~~  
2 31 ~~information. Each county shall participate in the county land~~  
2 32 ~~record information system and shall comply with the policies~~  
2 33 ~~and procedures established by the governing board of the~~  
2 34 ~~county land record information system.~~  
2 35 2. a. ~~Beginning For the period beginning July 1, 2004,~~  
3 1 ~~and ending June 30, 2009, the recorder shall collect a fee of~~  
3 2 ~~one dollar for each recorded transaction, regardless of the~~  
3 3 ~~number of pages, for which a fee is paid pursuant to section~~  
3 4 ~~331.604 to be used for the purpose set forth in subsection 4.~~  
3 5 b. ~~For the period beginning July 1, 2009, and ending June~~  
3 6 ~~30, 2011, the recorder shall collect a fee of three dollars~~  
3 7 ~~for each recorded transaction, regardless of the number of~~  
3 8 ~~pages, for which a fee is paid pursuant to section 331.604 to~~  
3 9 ~~be used for the following purposes:~~  
3 10 (1) ~~Maintaining the statewide internet website and the~~  
3 11 ~~county land record information system.~~  
3 12 (2) ~~Integrating information contained in documents and~~  
3 13 ~~records maintained by the recorder and other land record~~  
3 14 ~~information from other sources with the county land record~~  
3 15 ~~information system.~~  
3 16 (3) ~~Implementing and maintaining a process for redacting~~  
3 17 ~~personally identifiable information contained in electronic~~  
3 18 ~~documents that are displayed for public access through an~~  
3 19 ~~internet website or that are transferred to another person or~~  
3 20 ~~entity for commercial purposes.~~  
3 21 c. ~~Beginning July 1, 2011, the recorder shall collect a~~  
3 22 ~~fee of two dollars for each recorded transaction, regardless~~  
3 23 ~~of 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 (3) ~~Other activities deemed necessary by the governing~~  
3 32 ~~board of the county land record information system.~~  
3 33 d. ~~To the extent possible, fees collected in excess of the~~  
3 34 ~~amount needed for the purposes specified in this section shall~~  
3 35 ~~be used by the county land record information system to reduce~~  
4 1 ~~or eliminate service fees for electronic submission of~~  
4 2 ~~documents and instruments.~~  
4 3 3. The county treasurer, on behalf of the recorder, shall  
4 4 establish and maintain a county recorder's electronic  
4 5 transaction fund into which all moneys collected pursuant to  
4 6 ~~subsections 1 and subsection 2~~ shall be deposited. Interest  
4 7 earned on moneys deposited in this fund shall be computed  
4 8 based on the average monthly balance in the fund and shall be  
4 9 credited to the county recorder's electronic transaction fund.  
4 10 4. The local government electronic transaction fund is  
4 11 established in the office of the treasurer of state under the  
4 12 control of the treasurer of state. Moneys deposited into the  
4 13 fund are not subject to section 8.33. Notwithstanding section  
4 14 12C.7, interest or earnings on moneys in the local government  
4 15 electronic transaction fund shall be credited to the fund.  
4 16 Moneys in the local government electronic transaction fund are  
4 17 not subject to transfer, appropriation, or reversion to any  
4 18 other fund, or any other use except as provided in this  
4 19 subsection. On a monthly basis, the county treasurer shall  
4 20 ~~pay each fee collected pursuant to subsection 2 the fees~~  
4 21 ~~deposited in the county recorder's electronic transaction fund~~  
4 22 ~~to the treasurer of state for deposit into the local~~  
4 23 ~~government electronic transaction fund. Moneys credited to~~  
4 24 ~~the local government electronic transaction fund are~~  
4 25 ~~appropriated to the treasurer of state to be used for the~~  
4 26 ~~purpose of paying the ongoing costs of integrating and~~  
4 27 ~~maintaining the statewide internet website developed and~~

~~4 28 implemented under subsection 1 to provide electronic access to~~  
~~4 29 records and information.~~

4 30 5. The recorder shall make available any information  
4 31 required by the county auditor or auditor of state concerning  
4 32 the fees collected under this section for the purposes of  
4 33 determining the amount of fees collected and the uses for  
4 34 which such fees are expended.

4 35 Sec. 5. Section 331.606, Code 2009, is amended by adding  
5 1 the following new subsection:  
5 2 NEW SUBSECTION. 4. The recorder shall permanently archive  
5 3 an unaltered version of each recorded document or instrument.  
5 4 A document or instrument may be archived in its original  
5 5 format, as an electronic document, or in another format  
5 6 suitable for preserving information in the document or  
5 7 instrument. A person may view and copy an original or  
5 8 unaltered document or instrument in the office of the  
5 9 recorder.

5 10 Sec. 6. Section 331.606A, subsection 1, paragraph c, Code  
5 11 2009, is amended to read as follows:

5 12 c. "Redact" or "redaction" means the process of  
5 13 permanently removing all or a portion of personally  
5 14 identifiable information from documents.

5 15 Sec. 7. Section 331.606A, subsection 2, Code 2009, is  
5 16 amended to read as follows:

5 17 2. INCLUSION OF PERSONALLY IDENTIFIABLE INFORMATION. The  
5 18 preparer of a document shall not include an individual's  
5 19 personally identifiable information in a document that is  
5 20 prepared and presented for recording in the office of the  
5 21 recorder. This subsection shall not apply to documents that  
5 22 were executed by an individual prior to July 1, 2007. ~~Unless~~  
~~5 23 provided otherwise by law, all documents described by this~~  
~~5 24 section are subject to inspection and copying by the public.~~

5 25 Sec. 8. Section 331.606A, subsection 3, Code 2009, is  
5 26 amended by striking the subsection and inserting in lieu  
5 27 thereof the following:

5 28 3. REDACTION FROM ELECTRONIC DOCUMENTS. Personally  
5 29 identifiable information that is contained in electronic  
5 30 documents that are displayed for public access on a website,  
5 31 or which are transferred to any person for commercial  
5 32 purposes, shall be redacted prior to displaying or  
5 33 transferring the documents. Each recorder that displays  
5 34 electronic documents and the county land record information  
5 35 system that displays electronic documents on behalf of a  
6 1 county shall implement a system for redacting personally  
6 2 identifiable information. The recorder and the governing  
6 3 board of the county land record information system shall  
6 4 establish a procedure by which individuals may request that  
6 5 personally identifiable information contained in an electronic  
6 6 document displayed on a website be redacted, at no fee to the  
6 7 requesting individual. The requirements of this subsection  
6 8 shall be fully implemented not later than December 31, 2011.

6 9 Sec. 9. Section 331.606A, subsection 5, Code 2009, is  
6 10 amended to read as follows:

6 11 5. APPLICABILITY.

6 12 a. ~~This section~~ Subsection 2 shall not apply to a preparer  
6 13 of a state or federal tax lien or release, a military  
6 14 separation or discharge record, or a death certificate that is  
6 15 prepared for recording in the office of county recorder.

6 16 b. Subsection 3 shall not apply to a military separation  
~~6 17 or discharge record, a birth record, a death certificate, or~~  
~~6 18 marriage certificate unless such record or certificate is~~  
~~6 19 incorporated within another document or instrument that is~~  
~~6 20 recorded and displayed for public access on a website.~~

6 21 c. If a military separation or discharge record or a death  
6 22 certificate is recorded in the office of the county recorder,  
6 23 the military separation or discharge record or the death  
6 24 certificate shall not be ~~accessible through the internet~~  
~~6 25 displayed for public access on an internet website, public~~  
~~6 26 access terminal or other medium, or be transferred to any~~  
~~6 27 person for commercial purposes.~~

6 28 Sec. 10. Section 331.606A, Code 2009, is amended by adding  
6 29 the following new subsection:

6 30 NEW SUBSECTION. 6. LIMITATION OF LIABILITY. The county  
6 31 land record information system is a unit of local government  
6 32 for purposes of chapter 670, relating to tort liability of  
6 33 governmental subdivisions.

6 34 Sec. 11. Section 331.606B, subsection 1, Code 2009, is  
6 35 amended by adding the following new paragraph:

7 1 NEW PARAGRAPH. g. Each document or instrument presented  
7 2 for recording shall meet the requirements of section 331.606A,  
7 3 subsection 2.

7 4 Sec. 12. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
7 5 3, shall not apply to this Act.

7 6 EXPLANATION

7 7 This bill relates to the duties and authority of county  
7 8 recorders and the county land record information system.

7 9 The bill requires each county to participate in the county  
7 10 land record information system and comply with the policies  
7 11 and procedures established by the governing board of the  
7 12 county land record information system.

7 13 The bill increases the electronic transaction fee from \$1  
7 14 per recorded transaction to \$3 for transactions recorded  
7 15 between July 1, 2009, and June 30, 2011. The bill also  
7 16 provides that the electronic transaction fee for transactions  
7 17 recorded on or after July 1, 2011, is \$2. The bill specifies  
7 18 the purposes for which electronic transaction fees may be used  
7 19 and provides that fees collected in excess of the amount  
7 20 needed shall be used by the county land record information  
7 21 system to reduce or eliminate service fees for electronic  
7 22 submission services.

7 23 The bill authorizes the county recorder or the governing  
7 24 board of the county land record information system to enter  
7 25 into an agreement to provide access to electronic documents or  
7 26 records on a batch basis, as defined in the bill, and to  
7 27 collect fees for such access. Any such agreement must require  
7 28 the person with access to certify in writing that they will  
7 29 not provide such documents or records to any third party  
7 30 without the permission of the county recorder or the governing  
7 31 board of the county land record information system.

7 32 The bill amends the definition of "redact" or "redaction"  
7 33 to mean the process of permanently removing all or a portion  
7 34 of personally identifiable information from documents and  
7 35 requires that personally identifiable information contained in  
8 1 electronic documents that are displayed for public access on a  
8 2 website, or which are transferred to any person for commercial  
8 3 purposes, be redacted prior to displaying or transferring the  
8 4 documents.

8 5 The bill also requires each county recorder that displays  
8 6 electronic documents and the county land record information  
8 7 system that displays electronic documents on behalf of a  
8 8 county to implement a system for redacting personally  
8 9 identifiable information and to establish a procedure by which  
8 10 individuals may request that personally identifiable  
8 11 information contained in an electronic document displayed on a  
8 12 website be redacted, at no fee to the requesting individual.  
8 13 The bill requires procedures for redaction to be fully  
8 14 implemented by December 31, 2011. The bill excludes certain  
8 15 recorded documents and certificates from the prohibition on  
8 16 inclusion of personally identifiable information and the  
8 17 requirements for redaction of such information.

8 18 The bill provides that a county recorder shall refuse any  
8 19 document or instrument presented for recording that contains  
8 20 personally identifiable information, unless the person pays an  
8 21 additional recording fee of \$10 per document or instrument.

8 22 The bill requires a county recorder to permanently archive  
8 23 an unaltered version of each recorded document or instrument  
8 24 and provides that such documents and instruments may be viewed  
8 25 or copied in the office of the recorder.

8 26 The bill designates the county land record information  
8 27 system as a unit of local government for purposes of Code  
8 28 chapter 670, relating to tort liability of governmental  
8 29 subdivisions.

8 30 The bill may include a state mandate as defined in Code  
8 31 section 25B.3. The bill makes inapplicable Code section  
8 32 25B.2, subsection 3, which would relieve a political  
8 33 subdivision from complying with a state mandate if funding for  
8 34 the cost of the state mandate is not provided or specified.  
8 35 Therefore, political subdivisions are required to comply with  
9 1 any state mandate included in the bill.

9 2 LSB 1556SC 83

9 3 md/sc/5.2