



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 298 (Substitute S-1 as reported)
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Senate Bill 300 (Substitute S-1 as reported)
Senate Bill 301 (Substitute S-1 as reported)
Senate Bill 302 (Substitute S-1 as reported)
Senate Bill 303 (Substitute S-1 as reported)
Sponsor: Senator Mark C. Jansen (S.B. 298 & 302)
Senator Gerald Van Woerkom (S.B. 299)
Senator Tony Stamas (S.B. 300)
Senator John Pappageorge (S.B. 301)
Senator Patricia L. Birkholz (S.B. 303)
Committee: Local, Urban and State Affairs

Date Completed: 5-14-07

RATIONALE

Registers of deeds are responsible for receiving and recording deeds, mortgages, liens, and other legal documents relating to real property. These documents are part of the public record and can be found in the office or on the website of a register of deeds. Because many of these documents contain names, addresses, and Social Security numbers (SSNs), they can provide an opportunity for a person to commit identity theft or otherwise misuse an individual's personal information.

In order to protect an individual's personal information and prevent identity theft, it has been suggested that registers of deeds be authorized to obscure or remove SSNs that appear in copies of records and be required to reject new documents that contain SSNs, and that individuals should be able to request that their SSNs in recorded documents be removed or obscured.

CONTENT

Senate Bills 298 (S-1) through 302 (S-1) would amend various statutes to do the following, in regard to instruments pertaining to the title of real property:

-- Permit a register of deeds to remove or obscure a Social Security number in a document relating to title of land before providing a copy of it.

- Permit an individual to request that a register of deeds remove or obscure a portion of his or her SSN from an instrument.
- Make the removal or obscuring of a portion of an SSN in an instrument disposing of title to real estate, a condition of receiving an instrument for recording.
- Prohibit a register of deeds from receiving an instrument or reproduction for recording unless the first five digits of any SSN in it were obscured or removed.

Senate Bill 303 (S-1) would amend a separate statute to permit a register of deeds to remove or obscure, or require an individual to remove or obscure, all or part of an SSN in the reproduction of a record before the individual could take the copy. The bill also would permit an individual to request that a register of deeds remove or obscure a portion of his or her SSN from a copy of an instrument.

The provisions in each of the bills would not apply if State or Federal law, rule, regulation, or court order or rule required all or more than four sequential digits of an SSN to appear in a document.

The bills are described in detail below.

Senate Bill 298 (S-1)

The bill would amend Public Act 25 of 1836, which authorizes the board of supervisors of a county that is attached to another county for judicial purposes, to direct its register of deeds to record in books a complete copy of all deeds, mortgages, powers of attorney, or other instruments relating to the title of land in the county and on record in the county to which it is attached.

Under the bill, if a register of deeds provided a person with a copy of an instrument from a book of records that contained an SSN, the register of deeds could obscure or remove the first five digits of the number from the copy before providing it. An individual whose SSN was contained in one or more instruments in a county's books of record could request that the register of deeds obscure or remove the first five digits of the number from copies made of those instruments by recording an affidavit identifying their liber and page.

The bill also specifies that, as used in the Act, "books" would include a computerized recording system for instruments relating to the title of land.

Senate Bill 299 (S-1)

The bill would amend Public Act 103 of 1937, which prescribes conditions for the execution of instruments to be recorded in the register of deeds office. The conditions apply to an instrument by which title to or any interest in real estate is conveyed, assigned, encumbered, or otherwise disposed of. Under the bill, these conditions would include a requirement that the first five digits of any SSN appearing in or on the instrument be obscured or removed.

Senate Bill 300 (S-1)

The bill would amend Public Act 20 of 1867, which requires a register of deeds to record on the books in his or her office all deeds, mortgages, maps, instruments, or writings authorized by law to be recorded, and left with the register of deeds for that purpose, upon payment of the proper fee. Under the bill, a register of deeds could not receive an instrument or reproduction of an instrument unless the first five digits of any SSN

appearing in or on the instrument or reproduction were obscured or removed.

Senate Bill 301 (S-1)

The bill would amend Public Act 5 of 1873, which authorizes a register of deeds to receive and record a copy of a final court judgment that relates to the title of real estate. Under the bill, a register of deeds could not receive a judgment for recording unless the first five digits of any SSN appearing in or on the judgment were obscured or removed.

Senate Bill 302 (S-1)

The bill would amend Public Act 123 of 1915, which requires a register of deeds to receive and record affidavits affecting the title of real property. Under the bill, a register of deeds could not receive an affidavit for recording unless the first five digits of any SSN appearing in or on it were obscured or removed.

Senate Bill 303 (S-1)

The bill would amend Public Act 54 of 1875, which requires a register of deeds to furnish facilities for the inspection and examination of the records or files in his or her office, and for making memorandums or transcripts from the records and files, to an individual having a lawful purpose to examine them. Under the bill, if a record or file containing an SSN were reproduced for or by such an individual, the register of deeds could obscure or remove, or require the individual to obscure or remove, the first five digits of the SSN from the reproduction before he or she removed the reproduction from the office of the register of deeds. An individual whose SSN was contained in one or more instruments in a county's books of record could request that the register of deeds obscure or remove the first five digits of the number from copies made of those instruments by recording an affidavit identifying their liber and page.

- MCL 565.581 (S.B. 298)
- 565.201 (S.B. 299)
- 565.491 (S.B. 300)
- 565.401 (S.B. 301)
- 565.452 (S.B. 302)
- 565.551 (S.B. 303)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to the Federal Trade Commission, 255,565 Americans, including 7,139 in Michigan, were victims of identity theft in 2005. Identity thieves can obtain credit cards, take out loans, buy a car, and more, with as little personal information as a person's Social Security number, name, and date of birth. Correcting the damage that results from identity theft has cost the State and individuals a significant amount of time and money. The bills would help protect the privacy of personal information with practical and reasonable requirements. Under the bills, registers of deeds would have to reject new documents that contain full SSNs and would be authorized to remove or obscure SSNs in reproductions of documents, but would not have to meet strict deadlines to remove SSNs from already-recorded documents. In order to address SSNs in older documents, the bills would allow an individual to request that his or her SSN be removed from documents that had already been received and recorded.

Opposing Argument

Because the bills would not require registers of deeds to remove SSNs from documents that had already been recorded, many original documents would never be redacted. While these documents could not be reproduced for the public unless SSNs were removed or obscured, the SSNs in those documents still could be stolen by employees or others with access to the documents in a register's office. In order to protect personal information fully, the bills should require that SSNs on all public documents, including originals, be removed.

Response: It would be very difficult, if not impossible, for registers of deeds in the State to edit every document that contains an SSN. Because document formats and real estate-related laws have changed many times over the last several decades, the filing systems in many register of deeds offices have become very complex. For example, the method for redacting a document on microfiche is different than the methods used for redacting scanned computer documents and hard copies.

The experience in Texas is illustrative. After the Attorney General of Texas opined that governmental bodies in Texas could not publish or otherwise disclose SSNs of living people, county clerks in the state attempted but were unable to edit effectively the large number of documents for which they are responsible. After one week, the opinion was abated to allow the Texas legislature to find an alternative solution. According to the Attorney General, "The real-world consequence was a virtual halt to a tremendous amount of business and commerce in Texas." If registers of deeds in Michigan were required to remove all SSNs on recorded documents, registers would not be able to comply and real property transactions in the State would be adversely affected as they were in Texas.

Opposing Argument

The bills would not adequately protect SSNs because the requirements to obscure or remove the numbers would not apply if otherwise required by State or Federal law or rule, which can be the case for documents published by the State or Federal government. To protect his or her personal information, an individual should be able to request that his or her SSN be removed from any public document, including those published by the government.

Response: State government uses SSNs as identifiers when trying to locate an individual who owes the State money or who otherwise needs to be found. The State must publish SSNs because names and other information often are not enough to impose a property lien effectively. Also, the cost and time that would be needed for the State to edit documents containing SSNs that it uses and publishes would make it difficult for the State to comply.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bills would have no fiscal impact on State revenue or expenditure, or any impact on local unit revenue. The bill could increase expenditures for some local units by an unknown amount, depending on the costs of adapting systems to the changes, the number of individuals requesting identifying information to be obscured or removed, as well as the number of local

units that would opt to make the changes regardless of individual requests.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.