



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 298 (as enacted)
Senate Bill 299 (as enacted)
Senate Bill 301 (as enacted)
Senate Bill 303 (as enacted)
House Bill 4517 (as enacted)
House Bill 4519 (as enacted)

PUBLIC ACT 55 of 2007
PUBLIC ACT 56 of 2007
PUBLIC ACT 57 of 2007
PUBLIC ACT 58 of 2007
PUBLIC ACT 53 of 2007
PUBLIC ACT 54 of 2007

Sponsor: Senator Mark C. Jansen (S.B. 298)
Senator Gerald Van Woerkom (S.B. 299)
Senator John Pappageorge (S.B. 301)
Senator Patricia L. Birkholz (S.B. 303)
Representative Barb Byrum (H.B. 4517 & 4519)

Senate Committee: Local, Urban and State Affairs

House Committee: Intergovernmental, Urban and Regional Affairs

Date Completed: 9-26-07

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 personal information and prevent identity theft, it was suggested that registers of deeds should 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, 299, and 301 and House Bills 4517 and 4519 amended various statutes to do the following:

-- **Permit a register of deeds to remove or obscure all or at least the first five**

digits of 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 all or at least the first five digits of his or her SSN from an instrument.**
- **Make the removal or obscuring of all or at least the first five digits 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, or an affidavit affecting real property, for recording unless all or at least the first five digits of any SSN in it are obscured or removed.**

Senate Bill 303 amended a separate statute to permit a register of deeds to remove or obscure, or require an individual to remove or obscure, all or at least the first five digits an SSN in the reproduction of a record before the individual may take the copy. The bill also permits 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 (except the provisions that allow an individual to request that his or her SSN be obscured or removed) do not apply if State or Federal law, rule, regulation, or court order or rule requires all or more than four sequential digits of an SSN to appear in a document.

The House bills took effect on September 6, 2007, and the Senate bills took effect on September 12, 2007.

The bills are described in detail below.

Senate Bill 298

The bill amended 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 provides a person with a copy of an instrument from a book of records that contains an SSN, the register of deeds may obscure or remove all or at least the first five digits of the number from the copy before providing it. An individual whose SSN is contained in one or more instruments in a county's books of record may request that the register of deeds obscure or remove all or at least 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" includes a computerized recording system for instruments relating to the title of land.

Senate Bill 299

The bill amended 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, beginning on September 12, 2007 or, for an instrument presented to the register of deeds by the Department of Treasury, beginning on April 1, 2008, these

conditions include a requirement that the first five digits of any SSN appearing in or on the instrument be obscured or removed.

Senate Bill 301

The bill amended 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 may not receive a judgment for recording unless the first five digits of any SSN appearing in or on the judgment are obscured or removed.

Senate Bill 303

The bill amended 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 is reproduced for or by such an individual, the register of deeds may obscure or remove, or require the individual to obscure or remove, all or at least the first five digits of the SSN from the reproduction before he or she removes the reproduction from the office of the register of deeds.

An individual whose SSN is contained in one or more instruments in a county's books of record may request that the register of deeds obscure or remove all or at least the first five digits of the number from copies made of those instruments by recording an affidavit identifying their liber and page.

House Bill 4517

The bill amended Public Act 20 of 1867, which governs the recording of deeds, mortgages, and instruments of record, to prohibit a register of deeds from receiving an instrument or reproduction of an instrument for recording unless the first five digits of any SSN appearing in or on the instrument or reproduction are obscured or removed. The prohibition is effective on September 6, 2007, or, for an instrument presented to the register of deeds by the Department of Treasury, on April 1, 2008.

House Bill 4519

The bill amended Public Act 123 of 1915, which governs the recording of affidavits affecting real property, to prohibit a register of deeds from receiving an affidavit for recording unless the first five digits of any SSN appearing in or on the affidavit are obscured or removed.

MCL 565.581 (S.B. 298)
565.201 (S.B. 299)
565.401 (S.B. 301)
565.551 (S.B. 303)
565.491 (H.B. 4517)
565.452 (H.B. 4519)

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, it received over 246,000 complaints of identity theft in 2006, and there were 6,784 victims of identity theft in Michigan that year. 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 will help protect the privacy of personal information with practical and reasonable requirements. Under the bills, registers of deeds must reject new documents that contain full SSNs, and are authorized to remove or obscure SSNs in reproductions of documents, but do not have to meet strict deadlines to remove SSNs from already-recorded documents. In order to address SSNs in older documents, the bills allow an individual to request that his or her SSN be removed from documents that already have been received and recorded.

Opposing Argument

Because the bills do not require registers of deeds to remove SSNs from documents that already have been recorded, many original documents will never be redacted. While these documents may not be reproduced for the public unless SSNs are 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 law 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 will not adequately protect SSNs because the requirements to obscure or remove the numbers do 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 personal information, an SSN in any public document, including those published by the government, should be removed or obscured.

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.

Opposing Argument

The bills might impose an undue burden on registers of deeds. Sometimes, there are delays between the receipt of a document by a register of deeds and the date it is considered recorded. The requirement in the bills that the SSN be removed or obscured before recording the may exacerbate these delays. Additionally, it is unclear whether an instrument or affidavit recorded with a visible SSN, regardless of the requirement in the bills, will still be valid.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bills will have no fiscal impact on State revenue or expenditure, or any impact on local unit revenue. The bills may 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, and the number of affidavits from which SSNs must be obscured or removed, as well as the number of local units that opt to make the changes regardless of individual requests or already have opted to obscure or remove the specified information.

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.