



H.B. 135

126th General Assembly
(As Introduced)

Reps. Fende, Barrett, Chandler, S. Smith, Yuko, DeGeeter, McGregor, Strahorn, Ujvagi, Carano, Schaffer, Skindell, Koziura, D. Evans, Miller, Hartnett, Cassell, Harwood, Hood, Fessler, Garrison, Williams, Raussen, Beatty, Perry, Allen, Seitz, Domenick, S. Patton, Driehaus, Reidelbach, Schneider, Healy

BILL SUMMARY

- Prohibits the preparer of any document to be recorded by a county recorder from including any individual's social security number in any copy of the document that is filed for recording in the county recorder's office, and prohibits the county recorder from accepting a copy of such a document for recording if it includes any individual's social security number.
- Provides that a preparer is not liable in damages for harm sustained by an individual by inclusion of the individual's social security number on a copy of such document if the preparer establishes an affirmative defense that the preparer made a good faith effort to comply with the bill.
- Grants qualified civil immunity to the county recorder and to the recorder's employees for harm sustained by an individual as a result of the county recorder or employee accepting a copy of a document that includes the individual's social security number.

CONTENT AND OPERATION

Prohibitions

The bill prohibits the "preparer" (defined below) of any document to be recorded by a county recorder under R.C. 317.08 (see **COMMENT 1**) from including any individual's social security number in any copy of the document that is filed for recording in the office of the county recorder under that section. The bill prohibits a county recorder from accepting a copy of such a document for

recording if it includes any individual's social security number. (R.C. 317.082(B).)

The bill defines "preparer" as any mortgage company, bank, title agency, or other person responsible for filing documents with the office of a county recorder for recording under R.C. 317.08 (see **COMMENT 1**) (R.C. 317.082(A)).

Affirmative defense

The bill provides that the preparer is not liable in damages in a civil action for any harm an individual allegedly sustains as a result of the inclusion of the individual's social security number on a copy of a document in violation of the bill if the preparer establishes as an affirmative defense that the preparer made a good faith effort to comply with the bill.

Qualified civil immunity

Under the bill, the county recorder and the county recorder's employees are immune from liability in damages in a civil action brought against the county recorder or an employee of the county recorder to recover damages for any harm an individual allegedly sustains as a result of the county recorder or an employee of the county recorder accepting a copy of a document that includes the individual's social security number *unless* the county recorder or an employee of the county recorder accepted that copy with malicious purpose, in bad faith, or in a wanton or reckless manner or R.C. 2744.03(A)(6)(a) or (c) applies (see **COMMENT 2**). (R.C. 317.082(B).)

COMMENT

1. Generally, the county recorder keeps six separate sets of records as follows (R.C. 317.08(A) to (F), not in the bill):

(a) A record of deeds, in which are recorded: (i) all deeds and other instruments of writing for the absolute and unconditional sale or conveyance of lands, tenements, and hereditaments, (ii) all notices as provided in the Marketable Record Title Law, (iii) all judgments or decrees in actions to quiet title, (iv) all declarations and bylaws, and all amendments to declarations and bylaws, as provided in the Condominium Law, (v) affidavits on facts relating to title, (vi) all certificates pertaining to the removal of property from the provisions of the Condominium Law, (vii) all articles dedicating archaeological preserves accepted by the Director of the Ohio Historical Society, (viii) all articles dedicating nature preserves accepted by the Director of Natural Resources, (ix) all agreements for the registration of lands as archaeological or historic landmarks, (x) all conveyances of conservation easements and agricultural easements, (xi) all

instruments extinguishing agricultural easements or pursuant to terms of such an easement granted to a charitable organization, (xii) all instruments or orders pertaining to certain mineral interests in real property, (xiii) all no further action letters issued under the Brownfield Revitalization Law or the Voluntary Action Program Law, (xiv) all covenants not to sue issued under the Voluntary Action Program Law, including all covenants not to sue issued pursuant to the Brownfield Revitalization Law, (xv) any restrictions on the use of property contained in a no further action letter issued under the Brownfield Revitalization Law, any restrictions on the use of property identified under the Voluntary Action Program Law, and any restrictions on the use of property contained in a deed or other instrument as provided in the Petroleum Underground Storage Law, (xvi) any easement executed or granted under certain provisions of the Solid and Hazardous Wastes Law, (xvii) any environmental covenant entered into in accordance with the Environmental Covenants Law, (xviii) certain memoranda of trust that describe specific real property, and (xvix) certain agreements entered into under the Coastal Erosion Loan Program Law;

(b) A record of mortgages, in which are recorded: (i) all mortgages, including amendments, supplements, modifications, and extensions of mortgages, or other instruments of writing by which lands, tenements, or hereditaments are or may be mortgaged or otherwise conditionally sold, conveyed, affected, or encumbered, (ii) certain executory installment contracts for the sale of land, (iii) generally all options to purchase real estate, including supplements, modifications, and amendments of the options, and (iv) any tax certificate sold under the law dealing with negotiated purchases of tax certificates, or memorandum of it, that is presented for filing of record;

(c) A record of powers of attorney, including certain memoranda of trust that do not describe specific real property;

(d) A record of plats, in which are recorded all plats and maps of town lots, of the subdivision of town lots, and of other divisions or surveys of lands, any center line survey of a highway located within the county, and all drawings and amendments to drawings under the Condominium Law;

(e) A record of leases, in which are recorded all leases, memoranda of leases, and supplements, modifications, and amendments of leases and memoranda of leases;

(f) A record of living wills and durable powers of attorney for health care.

Generally, the county recorder also keeps a separate set of records containing all corrupt activity lien notices filed with the recorder and a separate set

of records containing all medicaid fraud lien notices filed with the recorder (R.C. 317.08(H)).

The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in R.C. 1513.33, 1513.37, 3752.13, 5111.021, and 5311.08. (R.C. 317.08.)

2. Under R.C. 2744.03(6)(a) and (c), not in the bill, the civil immunity of an employee of a political subdivision under the Political Subdivision Sovereign Immunity Law does not apply if the employee's acts or omissions were manifestly outside the scope of the employee's employment or official responsibilities or civil liability is expressly imposed upon the employee by a section of the Revised Code.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-15-05	pp. 318-319

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