

By: Allen of Dallas

H.B. No. 1368

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the confidentiality of and access to certain personal
3 information in instruments recorded with a county clerk.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 11.008(a), (b), (d), (e), and (f),
6 Property Code, are amended to read as follows:

7 (a) In this section, "instrument" means a deed~~[, mortgage,]~~
8 or deed of trust.

9 (b) Notwithstanding Section 191.007(c), Local Government
10 Code, an [An] instrument [executed on or after January 1, 2004,]
11 transferring an interest in real property to or from an individual
12 and disclosing that individual's social security number or driver's
13 license number must include [may not be recorded unless] a notice
14 that appears on the top of the first page of the instrument in
15 12-point boldfaced type or 12-point uppercase letters and reads
16 substantially as follows:

17 NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL
18 PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE
19 FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT
20 IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL
21 SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

22 (d) The county clerk may not under any circumstance reject
23 an instrument presented for recording solely because the instrument
24 ~~[contains or]~~ fails to comply with this section ~~[contain a social~~

1 ~~security number or driver's license number. If the county clerk~~
2 ~~accepts an instrument for recording, the recording of the~~
3 ~~instrument creates a conclusive presumption that the requirements~~
4 ~~of this section have been met].~~

5 (e) The county clerk shall post a notice in the county
6 clerk's office stating that instruments recorded in the real
7 property or official public records or the equivalent of the real
8 property or official public records of the county [~~and executed on~~
9 ~~or after January 1, 2004]~~:

10 (1) are not required to contain a social security
11 number or driver's license number; and

12 (2) are public records available for review by the
13 public.

14 (f) All instruments described by this section [~~recorded~~
15 ~~under this section~~] are subject to inspection by the public.

16 SECTION 2. Sections 191.007(c) and (h), Local Government
17 Code, are amended to read as follows:

18 (c) Except as provided by Section 11.008(b), Property Code,
19 a [A] clearly identifying heading, similar to the headings on most
20 commercially supplied printed forms, must be placed at the top of
21 the first page to identify the type or kind of legal paper.

22 (h) The filing fee or recording fee for each page of a legal
23 paper that is presented for filing or recording to a county clerk
24 and fails to meet one or more of the requirements prescribed by
25 Subsections (b) through (g) is equal to twice the regular filing fee
26 or recording fee provided by statute for that page. However, the
27 failure of a page to meet the following requirements [~~requirement~~

1 ~~prescribed by Subsection (b)(3) relating to type size]~~ does not
2 result in a fee increase under this subsection:

3 (1) the requirement prescribed by Subsection (b)(3)
4 relating to type size; and

5 (2) provided that the legal paper complies with
6 Section 11.008(b), Property Code, the requirement prescribed by
7 Subsection (c) that a legal paper have a clearly identifying
8 heading.

9 SECTION 3. The change in law made by this Act applies only
10 to a deed or deed of trust executed on or after the effective date of
11 this Act. A deed, mortgage, or deed of trust executed before the
12 effective date of this Act is covered by the law in effect at the
13 time the deed, mortgage, or deed of trust is executed, and that law
14 remains in effect for that purpose.

15 SECTION 4. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2005.