

1-1 By: Madla S.B. No. 461
1-2 (In the Senate - Filed February 10, 2005; February 22, 2005,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; March 23, 2005, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; March 23, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the confidentiality of and access to certain personal
1-9 information in instruments recorded with a county clerk.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (a), (b), (d), (e), and (f), Section
1-12 11.008, Property Code, are amended to read as follows:

1-13 (a) In this section, "instrument" means a deed~~[, mortgage,]~~
1-14 or deed of trust.

1-15 (b) Notwithstanding Section 191.007(c), Local Government
1-16 Code, an [An] instrument [executed on or after January 1, 2004,]
1-17 transferring an interest in real property to or from an individual
1-18 and disclosing that individual's social security number or driver's
1-19 license number must include [may not be recorded unless] a notice
1-20 that appears on the top of the first page of the instrument in
1-21 12-point boldfaced type or 12-point uppercase letters and reads
1-22 substantially as follows:

1-23 NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL
1-24 PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE
1-25 FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT
1-26 IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL
1-27 SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

1-28 (d) The county clerk may not under any circumstance reject
1-29 an instrument presented for recording solely because the instrument
1-30 ~~[contains or] fails to comply with this section [contain a social~~
1-31 ~~security number or driver's license number. If the county clerk~~
1-32 ~~accepts an instrument for recording, the recording of the~~
1-33 ~~instrument creates a conclusive presumption that the requirements~~
1-34 ~~of this section have been met].~~

1-35 (e) The county clerk shall post a notice in the county
1-36 clerk's office stating that instruments recorded in the real
1-37 property or official public records or the equivalent of the real
1-38 property or official public records of the county ~~[and executed on~~
1-39 ~~or after January 1, 2004]:~~

1-40 (1) are not required to contain a social security
1-41 number or driver's license number; and

1-42 (2) are public records available for review by the
1-43 public.

1-44 (f) All instruments described by this section [recorded
1-45 under this section] are subject to inspection by the public.

1-46 SECTION 2. Subsections (c) and (h), Section 191.007, Local
1-47 Government Code, are amended to read as follows:

1-48 (c) Except as provided by Section 11.008(b), Property Code,
1-49 a [A] clearly identifying heading, similar to the headings on most
1-50 commercially supplied printed forms, must be placed at the top of
1-51 the first page to identify the type or kind of legal paper.

1-52 (h) The filing fee or recording fee for each page of a legal
1-53 paper that is presented for filing or recording to a county clerk
1-54 and fails to meet one or more of the requirements prescribed by
1-55 Subsections (b) through (g) is equal to twice the regular filing fee
1-56 or recording fee provided by statute for that page. However, the
1-57 failure of a page to meet the following requirements ~~[requirement~~
1-58 ~~prescribed by Subsection (b)(3) relating to type size]~~ does not
1-59 result in a fee increase under this subsection:

1-60 (1) the requirement prescribed by Subsection (b)(3)
1-61 relating to type size; and

1-62 (2) provided that the legal paper complies with
1-63 Section 11.008(b), Property Code, the requirement prescribed by
1-64 Subsection (c) that a legal paper have a clearly identifying

2-1 heading.

2-2 SECTION 3. The change in law made by this Act applies only
2-3 to a deed or deed of trust executed on or after the effective date of
2-4 this Act. A deed, mortgage, or deed of trust executed before the
2-5 effective date of this Act is covered by the law in effect at the
2-6 time the deed, mortgage, or deed of trust is executed, and that law
2-7 remains in effect for that purpose.

2-8 SECTION 4. This Act takes effect immediately if it receives
2-9 a vote of two-thirds of all the members elected to each house, as
2-10 provided by Section 39, Article III, Texas Constitution. If this
2-11 Act does not receive the vote necessary for immediate effect, this
2-12 Act takes effect September 1, 2005.

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