

## 1999 SENATE BILL 281

November 9, 1999 – Introduced by Senators WELCH, SHIBILSKI, DRZEWIECKI, PLACHE, HUELSMAN, DARLING and COWLES, cosponsored by Representatives HEBL, MUSSER, BRANDEMUEHL, LASSA, LADWIG, STONE, M. LEHMAN, OWENS, GOETSCH, OLSEN, PORTER, PETTIS, KREIBICH, FREESE, SYKORA, RHOADES and MILLER. Referred to Committee on Economic Development, Housing and Government Operations.

1     **AN ACT to repeal** 59.43 (5) (b) 2., 59.43 (10), 59.43 (11) (a), (b) and (c), 59.43 (12m)  
2           (bm), 59.43 (12m) (d) and 236.02 (10); **to renumber and amend** 59.43 (11)  
3           (intro.); **to amend** 27.065 (13) (a), 59.43 (1) (a), 59.43 (1) (c), 59.43 (1) (d), 59.43  
4           (1) (e), 59.43 (1) (f), 59.43 (1) (i), 59.43 (1) (k), 59.43 (2) (h), 59.43 (3), 59.43 (7)  
5           (title), 59.43 (7) (a), 59.43 (9) (title), 59.43 (9) (a) 1. (intro.), 59.43 (9) (a) 1. a.,  
6           59.43 (9) (a) 1. b., 59.43 (9) (a) 1. g., 59.43 (9) (a) 1. h., 59.43 (12m) (title) and (a)  
7           (intro.), 59.73 (1), 66.021 (1) (am) 2., 70.23 (2), 70.27 (3) (b), 75.521 (3) (am) 1.,  
8           77.16 (2), 80.38 (1), 81.11 (5), 236.34 (3), 703.28 (1m) (b), 706.05 (2m) (a) and  
9           895.345 (2) (c); **to repeal and recreate** 59.43 (9) (a) 2., 59.43 (9) (b), 59.43 (12m)  
10          (a) 1., 59.43 (12m) (a) 2., 59.43 (12m) (a) 3. and 59.43 (12m) (c); and **to create**  
11          59.43 (9) (c) and 236.02 (9c) of the statutes; **relating to:** changes to the  
12          treatment of documents by a register of deeds.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a register of deeds is required to record, file, endorse and index certain documents in certain ways. This bill makes various technical changes

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to the ways in which such documents are handled by a register of deeds and modernizes the obsolete language and references that describe certain activities of a register of deeds. The changes in the bill include the following:

1. Under current law, a register of deeds is required to record or cause to be recorded documents such as maps. Under the bill, the register of deeds is required to file or record or cause to be filed or recorded all plats and certified survey maps that may be filed or recorded in his or her office.

2. Under current law, a register of deeds is required to state upon the record of any instrument the number and denomination of all U.S. internal revenue stamps that are affixed to the record and state upon the record the real estate transfer fee paid, subject to some exceptions. Under the bill, the register of deeds is required to state upon the record of any conveyance of real estate the real estate transfer fee paid, subject to the same exceptions that apply under current law. Internal revenue stamps have not been used for decades.

3. Currently, a register of deeds must endorse upon each instrument or writing received for record a certificate of the time and date when it was received and the volume and page where it is recorded. Under the bill, a register of deeds must endorse upon each instrument received for recording the name of the county in which the instrument is recorded and the date and time when it was accepted for recording. The bill requires such instruments to be recorded as soon as practicable, in the order in which they are received. Generally, the instruments must be recorded on the day they are received.

4. Currently, a register of deeds must record in a book all certificates of organization of corporations and amendments of such certificates. Under the bill, a register of deeds must keep an index of all organizational documents of corporations, fraternal societies, religious organizations, associations and other entities and all amendments of such documents.

5. The bill repeals a reference to filing requirements for filing with a register of deeds a will or death certificate.

6. For Milwaukee County, the bill substitutes “parcel identification” number for “tax key” number in a statute dealing with real estate.

7. Currently, a register of deeds is required to keep a 9 column general index that contains various information about recorded real estate transactions. The bill requires the register of deeds to maintain an index for the real estate record series that contains various information about real estate instruments that are recorded or filed.

8. With regard to affidavits of corrections of filed documents, the bill requires a register of deeds to include a notation of either the document number of the affidavit or the volume and page number where the affidavit is filed and the date on which it is filed.

9. The bill makes various technical changes in the filing and recording requirements for writs of attachment and notices of the pendency of an action affecting real estate.

10. The bill makes various technical changes and modernizes language in the tract index system that a register of deeds is required to keep.

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11. With regard to various statutory requirements related to the recording of certified survey maps and the filing of subdivision plats, the bill requires that such maps and plats be filed or recorded with a register of deeds.

12. With respect to a document that is to be recorded or filed and that affects an original mortgage or land contract, the bill provides that the document must contain the document number or the volume and page numbers of the original mortgage or land contract.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 27.065 (13) (a) of the statutes is amended to read:

2           27.065 **(13)** (a) Whenever in any proceeding under this section, whether for  
3 acquisition of land or improvement thereof, any tract of land which at the time of  
4 filing of the final assessment of benefits and damages is in one ownership and such  
5 tract or any portion thereof shall thereafter be divided or subdivided into 2 or more  
6 lots or parcels, either by filed or recorded plat or by conveyance duly recorded, and  
7 the special assessment of benefits against the original tract shall be outstanding, in  
8 instalments or otherwise, the county highway committee, after notice and hearing  
9 as hereinafter provided, on verified written request of the owner of such original tract  
10 or the owner of any portion thereof shall apportion said assessment of benefits among  
11 the several lots or parcels into which the original tract or any portion thereof is  
12 divided or subdivided.

13           **SECTION 2.** 59.43 (1) (a) of the statutes is amended to read:

14           59.43 **(1)** (a) Record or cause to be recorded in suitable books to be kept in his  
15 or her office, correctly and legibly all deeds, mortgages, ~~maps,~~ instruments and  
16 writings authorized by law to be recorded in his or her office and left with him or her  
17 for that purpose, provided such documents have plainly printed or typewritten

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1 thereon the names of the grantors, grantees, witnesses and notary. The register of  
2 deeds shall file or record or cause to be filed or recorded all plats and certified survey  
3 maps that are authorized to be accepted for filing or recording in his or her office.

4 Any county, by a resolution duly adopted by the board, may combine the separate  
5 books or volumes for deeds, mortgages, miscellaneous instruments, attachments, lis  
6 pendens, sales and notices, certificates of organization of corporations, plats or other  
7 recorded or filed instruments or classes of documents as long as separate indexes are  
8 maintained may be produced. Notwithstanding any other provisions of the statutes,  
9 any county adopting a system of microfilming or like process or a system of recording  
10 documents by optical imaging or electronic formatting under ch. 228 may substitute  
11 the headings, reel, disk or electronic file name and microfilm image (frame) for  
12 volume and page where recorded and different classes of instruments may be  
13 recorded, reproduced or copied on or transferred to the same reel, disk or electronic  
14 file or part of a reel or disk. All recordings made prior to June 28, 1961, which would  
15 have been valid under this paragraph, had this paragraph then been in effect, are  
16 hereby validated. In this subsection, “book”, if automated recording or indexing  
17 equipment is used, includes the meaning given under sub. (12) (d).

18 **SECTION 3.** 59.43 (1) (c) of the statutes is amended to read:

19 59.43 (1) (c) State upon the record of any ~~instrument the number and~~  
20 ~~denomination of all United States internal revenue stamps that are affixed thereto~~  
21 ~~and shall also state upon the record~~ conveyance of real estate the real estate transfer  
22 fee paid or, if the conveyance is not subject to a fee, the reason for the exemption,  
23 citing the relevant subsection of s. 77.25.

24 **SECTION 4.** 59.43 (1) (d) of the statutes is amended to read:

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1           59.43 (1) (d) ~~Keep the books and indexes~~ safely and maintain the documents,  
2 images of recorded documents and indices mentioned in this section and in s. 84.095  
3 in the manner required.

4           **SECTION 5.** 59.43 (1) (e) of the statutes is amended to read:

5           59.43 (1) (e) Endorse upon each instrument ~~or writing~~ received by the register  
6 for record ~~a certificate of recording the name of the county in which the instrument~~  
7 is recorded and the date and time when it the instrument was received recorded,  
8 specifying the day, hour and minute of reception ~~and the volume and page where the~~  
9 ~~same is recorded,~~ which shall be evidence of such facts. Instruments shall be  
10 recorded as soon as practicable, in the order in which they are received, and shall be  
11 recorded on the day they are received, except as provided in s. 59.20 (3) (c).

12           **SECTION 6.** 59.43 (1) (f) of the statutes is amended to read:

13           59.43 (1) (f) Endorse plainly on each instrument received for record, ~~or file as~~  
14 ~~soon as received~~ a number consecutive to the number ~~affixed to the instrument next~~  
15 ~~previously received according to the numbering now established, and to enter the~~  
16 ~~same in the indexes~~ assigned to the immediately previously recorded or filed  
17 instrument, such that all numbers are unique for each instrument within a group of  
18 public records that are kept together as a unit and relate to a particular subject.

19           **SECTION 7.** 59.43 (1) (i) of the statutes is amended to read:

20           59.43 (1) (i) Make and deliver to any person, on demand request and upon  
21 payment of the required fees and proper identification of the record, a certified copy,  
22 with the register's official seal affixed, of any official record, ~~paper, file, map or plat~~  
23 in the register's office.

24           **SECTION 8.** 59.43 (1) (k) of the statutes is amended to read:

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1           59.43 (1) (k) ~~Keep a book and record in that book all certificates of organization~~  
2 ~~of corporations an index of all organizational documents of corporations, fraternal~~  
3 ~~societies, religious organizations, associations and other entities, and all~~  
4 ~~amendments of such certificates documents, that are allowed or required by law to~~  
5 ~~be filed or required to be recorded in the register's office, and an alphabetical index~~  
6 ~~of the names of such corporations, with a reference to the number and page of the~~  
7 ~~volume where such writings are recorded respectively. The index shall access the~~  
8 ~~documents by the names of the corporations, fraternal societies, religious~~  
9 ~~organizations, associations and other entities, and shall contain a reference to the~~  
10 ~~document number or volume and page number where the documents are filed or~~  
11 ~~recorded in the register's office.~~

12           **SECTION 9.** 59.43 (2) (h) of the statutes is amended to read:

13           59.43 (2) (h) For recording or filing a cemetery plat under s. 157.07, a  
14 subdivision plat under s. 236.25 or a condominium plat under s. 703.07, \$50.

15           **SECTION 10.** 59.43 (3) of the statutes is amended to read:

16           59.43 (3) REGISTER OF DEEDS; DEPUTIES. Every register of deeds shall appoint  
17 one or more deputies, who shall hold office at the register's pleasure. The  
18 appointment shall be in writing and shall be ~~filed and~~ recorded in the register's office.  
19 The deputy or deputies shall aid the register in the performance of the register's  
20 duties under the register's direction, and in case of the register's vacancy or the  
21 register's absence or inability to perform the duties of the register's office the deputy  
22 or deputies shall perform the duties of register until the vacancy is filled or during  
23 the continuance of the absence or inability.

24           **SECTION 11.** 59.43 (5) (b) 2. of the statutes is repealed.

25           **SECTION 12.** 59.43 (7) (title) of the statutes is amended to read:

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1           59.43 (7) (title) ~~INCLUDING TAX KEY OR~~ PARCEL IDENTIFICATION NUMBER.

2           **SECTION 13.** 59.43 (7) (a) of the statutes is amended to read:

3           59.43 (7) (a) In counties with a population of 500,000 or more where ~~tax key~~  
4           parcel identification numbers are used in the tax roll for taxes based on the value of  
5           property in municipalities, any conveyance, as defined in s. 706.01 (4), of any interest  
6           in real estate located in such a municipality shall contain reference to the ~~key parcel~~  
7           identification number affected. The ~~tax key parcel identification~~ number shall be  
8           required for the recording of the conveyance.

9           **SECTION 14.** 59.43 (9) (title) of the statutes is amended to read:

10          59.43 (9) (title) ~~GENERAL INDEX; ELECTRONIC DATA PROCESSING~~ REAL ESTATE  
11          RECORDS INDEX.

12          **SECTION 15.** 59.43 (9) (a) 1. (intro.) of the statutes is amended to read:

13          59.43 (9) (a) 1. (intro.) A register of deeds shall ~~keep a general~~ maintain an  
14          ~~index, each page of which shall be divided into 9 columns, with heads to the~~  
15          ~~respective columns as follows~~ for the real estate record series that contains at least  
16          all of the following:

17          **SECTION 16.** 59.43 (9) (a) 1. a. of the statutes is amended to read:

18          59.43 (9) (a) 1. a. Number of the instrument that is consecutive and unique  
19          within the record series.

20          **SECTION 17.** 59.43 (9) (a) 1. b. of the statutes is amended to read:

21          59.43 (9) (a) 1. b. Time and date of the instrument's reception acceptance.

22          **SECTION 18.** 59.43 (9) (a) 1. g. of the statutes is amended to read:

23          59.43 (9) (a) 1. g. Volume and page where the instrument is recorded or filed.

24          **SECTION 19.** 59.43 (9) (a) 1. h. of the statutes is amended to read:

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1           59.43 (9) (a) 1. h. To whom the instrument is delivered, unless the document  
2 is kept on file.

3           **SECTION 20.** 59.43 (9) (a) 2. of the statutes is repealed and recreated to read:

4           59.43 (9) (a) 2. The index shall be accessible and searchable by at least all of  
5 the following means:

6           a. Name of the grantor.

7           b. Name of the grantee.

8           c. Document number, or volume and page where the instrument is recorded or  
9 filed.

10          d. By tract of land parcel if the county has a tract index.

11          **SECTION 21.** 59.43 (9) (b) of the statutes is repealed and recreated to read:

12          59.43 (9) (b) In the case of assignments, satisfactions and partial releases of  
13 mortgages, and subordination of mortgages, the index shall also contain the  
14 document number or volume and page of the original mortgage instrument  
15 whenever that original mortgage instrument is referenced on the document.

16          **SECTION 22.** 59.43 (9) (c) of the statutes is created to read:

17          59.43 (9) (c) With regard to affidavits of corrections of filed documents, the  
18 register shall include at least one of the following notations on the filed document:

19           1. The document number of the affidavit of correction.

20           2. The volume and page number where the affidavit of correction is filed, and  
21 the date when the affidavit is filed.

22          **SECTION 23.** 59.43 (10) of the statutes is repealed.

23          **SECTION 24.** 59.43 (11) (intro.) of the statutes is renumbered 59.43 (11) and  
24 amended to read:



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1           **59.43 (11)** RECORD OF ATTACHMENTS, LIS PENDENS, ETC. A register of deeds shall  
2 file or record, and index in the real estate records index, every writ of attachment or  
3 certified copy of such a writ and certificate of real estate attached, every certificate  
4 of sale of real estate, and every notice of the pendency of an action affecting real  
5 estate, which may be filed or recorded in the register's office. ~~The register of deeds~~  
6 ~~shall maintain an index for these documents that provides all of the following:~~

7           **SECTION 25.** 59.43 (11) (a), (b) and (c) of the statutes are repealed.

8           **SECTION 26.** 59.43 (12m) (title) and (a) (intro.) of the statutes are amended to  
9 read:

10           **59.43 (12m)** (title) ~~TRACT INDEX SYSTEM; POWER TO ALTER.~~ (a) (intro.) The board  
11 by ordinance may require the register of deeds to keep a tract index ~~in any one of the~~  
12 ~~following forms, as specified by the board~~ such that records containing valid  
13 descriptions of land may be searched by all of the following:

14           **SECTION 27.** 59.43 (12m) (a) 1. of the statutes is repealed and recreated to read:

15           **59.43 (12m)** (a) 1. Quarter-sections of land within the county, the boundaries  
16 of which refer to the public land survey system.

17           **SECTION 28.** 59.43 (12m) (a) 2. of the statutes is repealed and recreated to read:

18           **59.43 (12m)** (a) 2. Recorded and filed certified survey map and lot number.

19           **SECTION 29.** 59.43 (12m) (a) 3. of the statutes is repealed and recreated to read:

20           **59.43 (12m)** (a) 3. Recorded and filed plat, by name and lot, block, outlot, unit  
21 or other valid subunit within the plat, according to the description of the land.

22           **SECTION 30.** 59.43 (12m) (bm) of the statutes is repealed.

23           **SECTION 31.** 59.43 (12m) (c) of the statutes is repealed and recreated to read:

24           **59.43 (12m)** (c) If the board determines that a tract index system is unfit for  
25 use, the board may, by resolution, establish a new and corrected tract index. Any

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1 person who is authorized by the board to compile the new tract index shall have  
2 access to the old tract index and any other county records that may assist the person  
3 in compiling the new tract index. Upon completion, and approval by the board, of the  
4 new tract index system, the old tract index system shall be preserved as provided in  
5 s. 59.52 (3) (b). The resolutions of the board ordering, approving and adopting the  
6 new tract index systems, certified by the clerk, shall be recorded in each volume of  
7 the new tract index system and upon the resolution of the board adopting the new  
8 system, such a system is the only lawful tract index system in the register of deeds'  
9 office.

10 **SECTION 32.** 59.43 (12m) (d) of the statutes is repealed.

11 **SECTION 33.** 59.73 (1) of the statutes is amended to read:

12 59.73 (1) HOW BEARINGS EXPRESSED IN SURVEYS. In all surveys the bearings shall  
13 be expressed with reference to a magnetic, true or other identifiable line of the public  
14 land survey, recorded or filed subdivision or to the Wisconsin coordinate system. In  
15 all cases the reference selected shall be so noted as set forth in s. 59.45 (1) (a) 2. and  
16 if magnetic must be retraceable and identifiable by reference to a monumented line.

17 **SECTION 34.** 66.021 (1) (am) 2. of the statutes is amended to read:

18 66.021 (1) (am) 2. If the land is located in a recorded or filed subdivision or in  
19 an area subject to a certified survey map, by reference as described in s. 236.28 or s.  
20 236.34 (3).

21 **SECTION 35.** 70.23 (2) of the statutes is amended to read:

22 70.23 (2) When 2 or more lots or tracts owned by the same person are  
23 considered by the assessor to be so improved or occupied with buildings as to be  
24 practically incapable of separate valuation, the lots or tracts may be entered as one  
25 parcel. Whenever any tract, parcel or lot of land has been surveyed and platted and

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1 a plat of the platted ground filed or recorded according to law, the assessor shall  
2 designate the several lots and subdivisions of the platted ground as the lots and  
3 subdivisions are fixed and designated by the plat.

4 **SECTION 36.** 70.27 (3) (b) of the statutes is amended to read:

5 70.27 (3) (b) Notwithstanding par. (a), lands within an assessor's plat that are  
6 divided by a subdivision plat that is prepared, approved and recorded or filed in  
7 compliance with ch. 236 or a certified survey map that is prepared and recorded or  
8 filed in compliance with s. 236.34 shall be described for all purposes with reference  
9 to the subdivision plat or certified survey map, as provided in ss. 236.28 and 236.34  
10 (3).

11 **SECTION 37.** 75.521 (3) (am) 1. of the statutes is amended to read:

12 75.521 (3) (am) 1. A brief description sufficient to identify each parcel affected  
13 by such tax lien. The description shall state the lot, block and section number of any  
14 parcel upon any tract, the plat or map of which is filed or recorded in the office of the  
15 register of deeds of such county. If the lands be unplatted an engineer's metes and  
16 bounds description shall be a sufficient description.

17 **SECTION 38.** 77.16 (2) of the statutes is amended to read:

18 77.16 (2) The owner of 10 acres or more may file with the department an  
19 application setting forth a description of the lands which the owner desires to place  
20 under the woodland tax law and on which land the owner will practice forestry.  
21 Applications received prior to May 1 each calendar year shall be processed for entry  
22 by November 20 of that calendar year. Lands which include an entire  
23 quarter-quarter section, fractional lot or government lot as determined by U.S.  
24 government survey plat, excluding public roads and railroad rights-of-way that  
25 may have been sold, are not eligible for entry. Lands within filed or recorded plats

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1 or the incorporated limits of cities or villages are not eligible for entry, but lands  
2 subject to a woodland tax law agreement located in a town which incorporates as a  
3 city after the agreement was entered into remain in effect. Lands on which an  
4 improvement is located having an assessed value in itself are not eligible for entry.

5 **SECTION 39.** 80.38 (1) of the statutes is amended to read:

6 **80.38 (1)** The town board of any town within which is situated any village or  
7 other plat duly certified and filed or recorded and not included within the limits of  
8 any incorporated village may make an order to be recorded by the town clerk  
9 declaring such streets and alleys in the village or other plat as they deem necessary  
10 for the public use to be public highways, without any other survey or description than  
11 that made in the filed or recorded plat.

12 **SECTION 40.** 81.11 (5) of the statutes is amended to read:

13 **81.11 (5)** The town board, upon its own authority and without direction from  
14 the annual town meeting, may levy and collect a tax on property located in a filed or  
15 recorded plat situated in a town requiring the approval of such town board, and  
16 adjoining a private road used by the public located therein, and on property  
17 adjoining, where the owner regularly uses such road which is not a portion of any  
18 town, county, state or federal highway system, not exceeding 3 mills for each dollar  
19 of assessed valuation thereof. The proceeds of such tax shall be expended for the  
20 improvement and maintenance of any private roads used by the public located within  
21 such filed or recorded plat. The town board shall not expend any of such funds upon  
22 a private driveway.

23 **SECTION 41.** 236.02 (9c) of the statutes is created to read:

24 **236.02 (9c)** “Record” means, with respect to a final plat or a certified survey  
25 map, to record or file the document with the register of deeds.

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1           **SECTION 42.** 236.02 (10) of the statutes is repealed.

2           **SECTION 43.** 236.34 (3) of the statutes is amended to read:

3           236.34 **(3)** USE IN CONVEYANCING. When a certified survey map has been  
4 recorded in accordance with this section, the parcels of land in the map shall be, for  
5 all purposes, including assessment, taxation, devise, descent and conveyance, as  
6 defined in s. 706.01 (4), described by reference to the number of the survey, lot  
7 number, the volume and page where recorded, and the name of the county, for all  
8 purposes, including assessment, taxation, devise, descent and conveyance as defined  
9 in s. 706.01 (4) and identified according to the town, range, section and  
10 quarter-section, or plat name and lot, block or unit, government lot or private claims  
11 from which the certified survey map was made.

12           **SECTION 44.** 703.28 (1m) (b) of the statutes is amended to read:

13           703.28 **(1m)** (b) Before a certified survey map, condominium plat, subdivision  
14 plat or other plat may be recorded or filed, whichever is appropriate, for the same  
15 property, the condominium shall first be removed from the provisions of this chapter  
16 by recording a removal instrument.

17           **SECTION 45.** 706.05 (2m) (a) of the statutes is amended to read:

18           706.05 **(2m)** (a) Except as provided in par. (b), any document submitted for  
19 recording or filing that is to be indexed in the real estate records, any document  
20 submitted for recording or filing that modifies an original mortgage or land contract  
21 and any subordination agreement submitted for recording or filing shall contain the  
22 full legal description of the property to which it relates if the document or  
23 subordination agreement is intended to relate to a particular parcel of land. The  
24 legal description may be included on the document or may be attached to the  
25 document. Any such document shall also contain the document number or the

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1 volume ~~number~~ and page ~~number~~ numbers of any original mortgage or land contract  
2 that the document affects.

3 **SECTION 46.** 895.345 (2) (c) of the statutes is amended to read:

4 895.345 (2) (c) An accurate description by lot and block number, if part of a filed  
5 or recorded plat, or by metes and bounds of the real estate offered as security.

6 **SECTION 47. Initial applicability.**

7 (1) This act first applies to documents that are recorded, filed or indexed on the  
8 effective date of this subsection.

9 (END)