

2005 DRAFTING REQUEST

Bill

Received: 02/23/2005

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Louis Molepske (608) 267-9649

By/Representing: him

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Local Gov't - counties

Extra Copies: JTK

Submit via email: YES

Requester's email: Rep.Molepske@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit register of deeds from recording any document with full social security numbers

Instructions:

See attached. Prohibit registers of deeds from recording any instrument that contains the complete social security number of an individual

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 05/14/2005	jdye 05/16/2005		_____			S&L
/P1	mshovers 05/17/2005	kfollett 05/17/2005	pgreensl 05/17/2005	_____	lemery 05/17/2005		S&L
/1	mshovers 05/20/2005	kfollett 05/26/2005	pgreensl 05/27/2005	_____	sbasford 05/27/2005		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	mshovers 06/08/2005	kfollett 06/08/2005	rschluet 06/08/2005	_____	Inorthro 06/08/2005	mbarman 06/09/2005	

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: 02/23/2005

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Louis Molepske (608) 267-9649

By/Representing: him

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Local Gov't - counties

Extra Copies: JTK

Submit via email: YES

Requester's email: Rep.Molepske@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit register of deeds from recording any document with full social security numbers

Instructions:

See attached. Prohibit registers of deeds from recording any instrument that contains the complete social security number of an individual

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 05/14/2005	jdyer 05/16/2005		_____			S&L
/P1	mshovers 05/17/2005	kfollett 05/17/2005	pgreensl 05/17/2005	_____	lemery 05/17/2005		S&L
/1	mshovers 05/20/2005	kfollett 05/26/2005	pgreensl 05/27/2005	_____	sbasford 05/27/2005		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	mshovers 06/08/2005	kfollett 06/08/2005	rschluet 06/08/2005	_____	lnorthro 06/08/2005		

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: 02/23/2005

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Louis Molepske (608) 267-9649

By/Representing: him

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Local Gov't - counties

Extra Copies: JTK

Submit via email: YES

Requester's email: Rep.Molepske@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit register of deeds from recording any document with full social security numbers

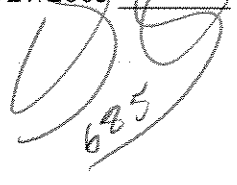
Instructions:

See attached. Prohibit registers of deeds from recording any instrument that contains the complete social security number of an individual

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 05/14/2005	jdye 05/16/2005					S&L
/P1	mshovers 05/17/2005	kfollett 05/17/2005	pgreensl 05/17/2005		lemery 05/17/2005		S&L
/1	mshovers 05/20/2005	kfollett 05/26/2005	pgreensl 05/27/2005		sbasford 05/27/2005		

12 MES 6/8/05
12 kjf
6/8/05



FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: 02/23/2005

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Louis Molepske (608) 267-9649

By/Representing: him

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact: *Cindy - Pres. of Registers of Deeds Assoc.*

Addl. Drafters:

Subject: Local Gov't - counties *715-346-1428*

Extra Copies: JTK

Submit via email: YES

Requester's email: Rep.Molepske@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit register of deeds from recording any document with full social security numbers

Instructions: *I called cindy on 5/18/05 & left a voicemail message.*

See attached. Prohibit registers of deeds from recording any instrument that contains the complete social security number of an individual

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 05/14/2005	jdyer 05/16/2005					S&L
/P1	mshovers 05/17/2005	kfollett 05/17/2005	pgreensl 05/17/2005	<i>S/D</i>	lemery 05/17/2005		

1/1 MES 5/20/05
11 kjf 5/26
5/20
5/20
PS/13
 FE Sent For: *PS* <END>

2005 DRAFTING REQUEST

Bill

Received: **02/23/2005**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Louis Molepske (608) 267-9649**

By/Representing: **him**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - counties**

Extra Copies: **JTK**

Submit via email: **YES**

Requester's email: **Rep.Molepske@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit register of deeds from recording any document with full social security numbers

Instructions:

See attached. Prohibit registers of deeds from recording any instrument that contains ^{more than a partial} ~~the complete~~ social security number of an individual

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 05/14/2005 mshovers	jdyer 05/16/2005	S/n px	5/17 5/17 pa/gb			
<i>1/PI MES 5/17/05 5/17</i>							

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: 02/23/2005

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Louis Molepske (608) 267-9649

By/Representing: him

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: **Public Records**

Extra Copies:

Submit via email: YES

Requester's email: **Rep.Molepske@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit access to social security numbers in public records

Instructions:

Per LRB-2182/1, but modify to apply to existing as well as newly created records, and apply s. 50.20 (3) (d) stats., regarding inadvertant charging of excessive fees, to all custodians.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel			_____			

FE Sent For:

<END>

2005 BILL

1 AN ACT *to renumber* 19.37 (4); *to amend* 59.20 (3) (d); and *to create* 19.36 (13)
2 and 19.37 (4) (b) and (c) of the statutes; **relating to:** access to certain public
3 records containing social security account numbers of individuals and
4 providing penalties.

Analysis by the Legislative Reference Bureau

Currently, the custodian of the records of any state or local governmental unit must provide access to any public record in his or her custody unless otherwise authorized or required by law or unless the custodian demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing access to that record. Federal law prohibits state and local governmental units from disclosing social security numbers under certain conditions.

This bill provides that, if a new record containing the social security number of an individual, together with information revealing the identity of that individual, is kept by a state or local governmental unit on or after January 1, 2007, or if a record in the custody of a state or local governmental unit is modified to insert the social security number of an individual on or after January 1, 2007, and the record contains information revealing the identity of that individual, the custodian of the record must delete the social security number before permitting access to the record, unless the person who requests access to the record is specifically authorized by federal or state law to have access to the social security number.

The bill, however, permits the requester of a record to have access to the social security number of an individual, unless otherwise restricted by law, if:

BILL

1. The record pertains to that individual alone, to the marital or parental rights or responsibilities of that individual and his or her spouse or former spouse, to the property of that individual held jointly or in common with one or more other individuals, or to a civil lawsuit in which the individual is a specifically named party, and the individual provides appropriate identification; or

2. The requester is an authorized representative of an insurer or an organization that performs investigations for insurers and the social security number is relevant to an investigation of suspected, anticipated, or actual insurance fraud.

The bill also provides that, if any person misrepresents his or her identity for the purpose of obtaining access to the social security number of another individual, the person is subject to a forfeiture (civil penalty) of not more than \$1,000 for each social security number obtained by means of misrepresentation. In addition, under the bill, if any insurer or other person obtains a social security number and uses that number for purposes other than an investigation of suspected, anticipated, or actual insurance fraud, the person is subject to a forfeiture of not more than \$1,000 for each social security number used by the person for unauthorized purposes.

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

1 **SECTION 1.** 19.36 (13) of the statutes is created to read:

2 **19.36 (13) SOCIAL SECURITY ACCOUNT NUMBERS.** (a) Except as provided in par.
3 (b), if a new record containing a social security account number of an individual,
4 together with information revealing the identity of that individual, is kept by an
5 authority on or after January 1, 2007, or if a record in the custody of an authority is
6 modified to insert the social security account number of an individual on or after
7 January 1, 2007, and the record contains information revealing the identity of that
8 individual, the authority shall delete the social security account number before
9 permitting access to the record, unless the requester is specifically authorized by
10 federal or state law to have access to the social security account number.

11 (b) Unless otherwise provided by federal or state law, including common law
12 principles, a requester may have access to a record containing the social security
13 account number of an individual if any of the following applies:

BILL

1 1. The record pertains to that individual alone, to the marital or parental rights
2 or responsibilities of that individual and his or her spouse or former spouse, to
3 property of that individual held jointly or in common tenancy with one or more other
4 individuals, or to a civil legal action or proceeding in which the individual is a
5 specifically named party, and the individual provides appropriate identification to
6 the custodian.

7 2. The requester is an authorized representative of an insurer or an
8 organization that performs investigations for insurers and the social security
9 account number is relevant to an investigation of suspected, anticipated, or actual
10 insurance fraud.

11 **SECTION 2.** 19.37 (4) of the statutes is renumbered 19.37 (4) (a).

12 **SECTION 3.** 19.37 (4) (b) and (c) of the statutes are created to read:

13 19.37 (4) (b) If any person misrepresents his or her identity for the purpose of
14 obtaining access to the social security account number of another individual under
15 s. 19.36 (13) (a), the person may be required to forfeit not more than \$1,000 for each
16 social security account number obtained by the person by means of such
17 misrepresentation.

18 (c) If an insurer or other person obtains a social security account number under
19 s. 19.36 (13) (b) and uses that number for purposes other than an investigation as
20 provided in that paragraph, the person may be required to forfeit not more than
21 \$1,000 for each social security account number used by the person for such
22 unauthorized purposes.

23 **SECTION 4.** 59.20 (3) (d) of the statutes is amended to read:

24 59.20 (3) (d) Any register of deeds who in good faith makes an erroneous
25 determination as to the accessibility of a portion of a record, to members of the public

BILL

1 under s. 19.36 (6), is not subject to any penalty for denial of access to the record under
2 s. 19.37 (4) (a).

3 (END)

Kuesel, Jeffery

From: Christopher, Marc
Sent: Wednesday, April 13, 2005 11:03 AM
To: Kuesel, Jeffery
Subject: Drafting Request

Here are the changes he wanted to make to the SS# draft.

Please let me know if you have any further questions.

Marc Christopher
Office of Louis J. Molepske, Jr.
State Representative
71st Assembly District



Scan001.PDF

Social Security # Bill

705.05 Formal requisites for record.

(2a) Except as different or additional requirements may be provided by law, no instrument offered for recording may contain the complete social security of an individual.

- (1) The last four digits and the last four digits only of an individual's social security number may be placed on the record.
- (2) Federal income tax liens are exempt from this restriction except that as of the effective date of this bill, the register of deeds may block the first five characters of the social security number or the entire social security number.
- (3) The register of deeds who receives instruments for recording that are later discovered to contain a social security number may not be held liable for the document drafter's placement of the social security number on the document.

2b) Any person who violates par. (2a) is liable to the person whose social security number is placed on the recorded public document for penalty damages of up to \$5,000 plus actual damages resulting from the violation. A person may not be held liable for actual damages unless the person harmed paid the costs that are to be compensated.

Rationale

(2a) Makes it illegal to place the social security number of an individual on a document to be recorded with the register of deeds. All of these documents are part of the public record used by many representatives and individuals to conduct searches regarding property rights and interests. Social security numbers may be placed on private agreements but should not be part of the public record.

- (1) This would allow a customer to use the last four digits of the social security number to distinguish one John H. Smith from another John H. Smith without revealing the entire social security number. Property Records Industry Association (PRIA) membership has discussed and it seems to be emerging as an industry standard.*
- (2) IRS officials have indicated interest in addressing the social security number privacy issue as they develop their new system for preparing and recording federal tax liens, but they have also indicated that this project will take time. This is a measure that can be used until their new system is implemented.*
- (3) This would avoid liability for county government since many of these numbers are buried deep in multi-paged documents and not easy to locate. The burden should be placed on those who draft or cause to be drafted, legal instruments to be recorded.*

(2b) This penalty is similar to the penalty for a mortgage lender who fails to comply with requirements for preparing and recording satisfaction documents in a timely fashion after the mortgage has been paid off. See 706.05(10)(c).

Replaces

Shovers, Marc

From: Kuesel, Jeffery
Sent: Monday, May 16, 2005 11:39 AM
To: Shovers, Marc
Subject: FW: LRB-2254 (SS#s on documents recorded with register of deeds) (Molepske)

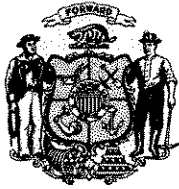
-----Original Message-----

From: Kuesel, Jeffery
Sent: Saturday, May 14, 2005 1:06 PM
To: Shovers, Marc
Subject: LRB-2254 (SS#s on documents recorded with register of deeds) (Molepske)

Marc,

I have forwarded the above draft to you and placed it in your hard-copy in box. I started on this with Louis Molepske but in talking to others he decided to narrow the scope of the draft. I have been too busy to look at the revisions when they came in on 4/13 but now that I have looked at them, I think that all the language should probably go into s. 59.43, stats. Marc Christopher has been calling to check on draft status, but has been polite. It looks to me as if this is pretty straightforward. I told them I had to hand the draft off to you. I would appreciate it if you could either handle it this coming week or talk to them if you can't. If you have any question, please let me know. Thanks.

Jeff



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-22547

MES. 6/1/05

Handwritten initials and signature: jf, RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-NOTE

WANTED:
today

gen

1 AN ACT ...; relating to: restricting a register of deeds from recording certain
2 instruments that contain ^{more} a complete social security number and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

To be provided in a future version of the draft.

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

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

4 SECTION 1. 59.43 (1) (intro.) of the statutes is amended to read:

5 59.43 (1) REGISTER OF DEEDS; DUTIES. (intro.) ~~The~~ Subject to sub. (1m), the
6 register of deeds shall:

History: 1995 a. 201 ss. 326, 327, 335, 338 to 353, 355, 361, 367, 369, 375, 377 to 380, 382 to 384; 1995 a. 225 ss. 159, 160, 162; 1995 a. 227; 1997 a. 27, 35, 79, 140, 252, 282, 303, 304; 1999 a. 96; 2001 a. 10, 16 ss. 1999m to 2001m, 4041b; 2003 a. 33 s. 2811; 2003 a. 48 s. 11; 2003 a. 206.

7 SECTION 2. 59.43 (1m) of the statutes is created to read:

8 59.43 (1m) RESTRICTIONS ON RECORDING INSTRUMENTS WITH SOCIAL SECURITY
9 NUMBERS. (a) Except as otherwise provided in this subsection, no register of deeds

1 may record any instrument offered for recording if the instrument contains more
2 than the last 4 characters of the social security number of an individual.

3 (b) If a register of deeds is presented with an instrument for recording that
4 contains more than the last 4 characters of an individual's social security number,
5 the register of deeds may refuse to record the instrument, or the register of deeds may
6 record the instrument if he or she removes or obscures a sufficient number of
7 characters from the social security number such that no more than the last 4
8 characters of the social security number are discernable on the instrument.

9 (c) If a register of deeds is presented with an instrument for recording that
10 contains the complete social security number of an individual, and if the register of
11 deeds records the instrument but does not discover that the instrument contains the
12 complete social security number until after the instrument is recorded, the register
13 of deeds may not be held liable for the instrument drafter's placement of the social
14 security number on the instrument.

15 (d) If a register of deeds records an instrument that contains the complete social
16 security number of an individual, the person who presented the register of deeds
17 with the instrument is liable to the individual whose social security number appears
18 in the recorded public document for damages of up to \$5,000, plus any actual
19 damages resulting from the instrument being recorded. A person may not be held
20 liable for actual damages under this paragraph unless the individual harmed paid
21 or incurred any costs as a result of the instrument being recorded

22 (e) ^{Paragraphs ✓ ✓} The pars. (a) to (d) do not apply to a federal income tax lien.

23 **SECTION 3. Initial applicability.**

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2254/ndp
MES...*kit*

Date

Representative Molepske:

I have done this bill as a preliminary draft because the written instructions that were submitted to me are unclear and I am unsure of your intent. One of the instructions seems to say that no instrument may be recorded by a register of deeds that contains a **complete** social security number, but that the last 4 digits may appear on the instrument. The instructions aren't clear as to what would happen if a register of deeds is presented with an instrument that contains between 5 and 8 characters from a social security number. Would he or she have to record it? Does the instruction mean that the first 5 characters of a social security number may not appear on any instrument that is presented for recording, but the last 4 characters may appear? The instructions aren't clear as to the circumstances under which a register of deeds may remove the first 5, or all, characters of a social security number from an instrument to be recorded? See your written instructions, s. 705.05 (2a) (intro.), (1) and (2).

Based on the totality of the instructions, I tried to resolve these ambiguities in the draft. Please review created s. 59.43 (1m) (a) and (b) to see whether I've captured your intent.

The next instruction states that the first general rule [from instruction s. 705.05 (2a) (intro.) and (1)] doesn't apply to federal tax liens, except that the register of deeds may block the first 5 characters of the social security number, or the entire number. It's unclear to me how the federal tax lien exception works. Can a complete social security number appear on a federal tax lien? Does the "except" clause only apply to federal tax liens? Does your instruction s. 705.05 (2a) (2) mean that register of deeds can remove the first 5 characters, or all characters, of a social security number from any instrument or only from federal tax liens? I drafted the bill so that none of the rules apply to federal tax liens. Is this your intent?

The forfeiture language in your instruction s. 705.05 (2b) states that there may be imposed "damages of **up to** \$5,000 plus actual damages resulting from the violation." This "up to" language is ambiguous because it doesn't give a court any guidance as to under what circumstances a court could impose a \$5,000 forfeiture or a \$1 forfeiture. Also, by "actual" damages, do you mean that a person harmed by the recording of an instrument with his or her social security number must actually pay, out of pocket, at least \$1 to get "actual" damages? What if an individual has his identity stolen because

five *eight* *although I've tried to reconcile some of the ambiguities.* *four* *four*

someone obtained his social security number and the individual didn't have any actual expenses, but had to spend 50 hours on the phone clearing up the mess with banks, credit reporting agencies, etc. Would that individual, if he had unlimited local calling on his phone and thus incurred no "actual" damages, be ineligible to be compensated for the time he spent?

I would be happy to discuss with you any issues raised in this drafter's note. Please let me know if you'd like to discuss the bill or indicate the changes you'd like me to make in the bill and I will redraft it and prepare an analysis.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2254/P1dn
MES:kjf:pg

May 17, 2005

Representative Molepske:

I have done this bill as a preliminary draft because the written instructions that were submitted to me are unclear and I am unsure of your intent, although I've tried to reconcile some of the ambiguities. One of the instructions seems to say that no instrument may be recorded by a register of deeds that contains a **complete** social security number, but that the last four digits may appear on the instrument. The instructions aren't clear as to what would happen if a register of deeds is presented with an instrument that contains between five and eight characters from a social security number. Would he or she have to record it? Does the instruction mean that the first five characters of a social security number may not appear on any instrument that is presented for recording, but the last four characters may appear? The instructions aren't clear as to the circumstances under which a register of deeds may remove the first five, or all, characters of a social security number from an instrument to be recorded. See your written instructions, s. 705.05 (2a) (intro.), (1) and (2).

Based on the totality of the instructions, I tried to resolve these ambiguities in the draft. Please review created s. 59.43 (1m) (a) and (b) to see whether I've captured your intent.

The next instruction states that the first general rule [from instruction s. 705.05 (2a) (intro.) and (1)] doesn't apply to federal tax liens, except that the register of deeds may block the first five characters of the social security number, or the entire number. It's unclear to me how the federal tax lien exception works. Can a complete social security number appear on a federal tax lien? Does the "except" clause only apply to federal tax liens? Does your instruction s. 705.05 (2a) (2) mean that register of deeds can remove the first five characters, or all characters, of a social security number from any instrument or only from federal tax liens? I drafted the bill so that none of the rules apply to federal tax liens. Is this your intent?

The forfeiture language in your instruction s. 705.05 (2b) states that there may be imposed "damages of **up to \$5,000** plus actual damages resulting from the violation." This "up to" language is ambiguous because it doesn't give a court any guidance as to under what circumstances a court could impose a \$5,000 forfeiture or a \$1 forfeiture. Also, by "actual" damages, do you mean that a person harmed by the recording of an instrument with his or her social security number must actually pay, out of pocket, at

least \$1 to get "actual" damages? What if an individual has his identity stolen because someone obtained his social security number and the individual didn't have any actual expenses, but had to spend 50 hours on the phone clearing up the mess with banks, credit reporting agencies, etc. Would that individual, if he had unlimited local calling on his phone and thus incurred no "actual" damages, be ineligible to be compensated for the time he spent?

I would be happy to discuss with you any issues raised in this drafter's note. Please let me know if you'd like to discuss the bill or indicate the changes you'd like me to make in the bill and I will redraft it and prepare an analysis.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

Shovers, Marc

From: Wisinskc@co.portage.wi.us
Sent: Monday, May 23, 2005 9:45 AM
To: Shovers, Marc
Subject: social security bill

Marc,

I have received a few additional comments regarding the draft bill on social security numbers. They are listed below. Please let me know if you have other questions.

Thanks again for all your help!

Cindy Wisinski
Portage County Register of Deeds
WRDA Legislative Chair

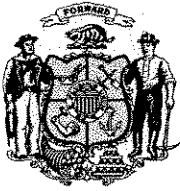
I had another thought. I think we should leave out the "for damages" language and just leave it an "up to \$5000 penalty." This would allow people who suffer many thousands of dollars because of identity theft to sue for damages in addition to the penalty. See what Marc (the LRB drafter) thinks about this.

Page 2 - Line 16 - shouldn't this read "the instrument drafter" not "the person who presented the register of deeds with the instrument is liable....."

**Items for Consideration in Model Legislation
Relating to Privacy Protection in Public Records**

1. Legislation should be effective on a "day-forward" basis. It should not require redaction or expungement in records already filed/recorded. *- see init. app*
2. Prohibit inclusion of SSN on public documents. This should include providing records custodians with the authority to reject a document for filing/recording that includes a SSN. Practically speaking, rejection authority needs to be permissive rather than prescriptive. The sheer volume of documents and the number of pages involved would make prescriptive authority impossible to manage. *I think (1m)(a) addresses this*
3. Establish financial penalties against document preparers who place SSN's in public records. However, penalties cannot be sought against records filed/recorded prior to the effective date of this legislation. *init app takes care of this*
4. The enforceability of a contract created by a document cannot be challenged solely on the basis of the inclusion of an SSN. *doesn't seem necessary*
5. Record custodians should be explicitly indemnified from any and all damages relating to documents filed/recorded that include SSN's. *see CP, D. 59.43 (1m) (b)*

6. If a record recorded after the effective date of the legislation is found to contain a SSN, the custodian should be provided the authority to redact the SSN from the document.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2254/P1

MES:kjf:pg

1
fms

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SOON

register

1 AN ACT *to amend* 59.43 (1) (intro.); and *to create* 59.43 (1m) of the statutes;
2 relating to: ~~restricting~~ ^{prohibiting} a register of deeds from recording certain instruments
3 that contain more than a partial social security number and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

To be provided in a future version of the draft.

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

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

5 SECTION 1. 59.43 (1) (intro.) of the statutes is amended to read:

6 59.43 (1) REGISTER OF DEEDS; DUTIES. (intro.) The Subject to sub. (1m), the
7 register of deeds shall:

8 SECTION 2. 59.43 (1m) of the statutes is created to read:

9 59.43 (1m) RESTRICTIONS ON RECORDING INSTRUMENTS WITH SOCIAL SECURITY
10 NUMBERS. (a) Except as otherwise provided in this subsection, ~~no~~ ^a register of deeds

INSANA

1 may ^{not} record any instrument offered for recording if the instrument contains more
2 than the last 4 characters of the social security number of an individual.

3 (b) If a register of deeds is presented with an instrument for recording that
4 contains more than the last 4 characters of an individual's social security number,
5 the register of deeds ~~may~~ ^{shall} refuse to record the instrument, or the register of deeds may
6 record the instrument if he or she removes or obscures a sufficient number of
7 characters from the social security number such that no more than the last 4
8 characters of the social security number are discernable on the instrument.

9 (b) ⁴ If a register of deeds is presented with an instrument for recording that
10 contains ~~the complete~~ ^{more than the last four} social security number of an individual, and if the register of
11 deeds records the instrument but does not discover that the instrument contains ~~the~~
12 complete social security number until after the instrument is recorded, the register
13 of deeds may not be held liable for the instrument drafter's placement of ~~the~~ social
14 security number on the instrument. ^{and the register of deeds may remove or obscure}

15 (c) If a register of deeds records an instrument that contains the complete social
16 security number of an individual, the ~~person who presented the register of deeds~~
17 ^{drafter} with the instrument is liable to the individual whose social security number appears
18 in the recorded public document for damages of ~~up to~~ ^{not more than} \$5,000, plus any actual
19 damages resulting from the instrument being recorded. A person may not be held
20 liable for actual damages under this paragraph unless the individual harmed paid
21 or incurred any costs as a result of the instrument being recorded.

22 (d) Paragraphs (a) to ^(c) do not apply to a federal income tax lien.

23 SECTION 3. Initial applicability.

LPS:
use
3 times

move

and the register of deeds may remove or obscure

←

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2254/lins
MES:kjf:pg

INS ANL

Generally under current law, a register of deeds is required to record in his or her office any document that is authorized by law to be so recorded. Documents that are recorded in a register of deeds' office include deeds, mortgages, real estate conveyances, marriage records, documents relating to certain security interests, and certain financial documents. In addition, a register of deeds is required under current law to make and deliver on demand, to any person who pays the required fees, a copy of any record, paper, or file in the register's office.

Under this bill, a register of deeds may not record any instrument offered for recording if the instrument contains more than the last four characters of the social security number of an individual. ~~If a register of deeds is presented with such an instrument, the register of deeds may refuse to record it.~~ ~~Also under the bill,~~ if a register of deeds is presented with an instrument that contains more than the last four characters of the social security number of an individual and if the register of deeds records the instrument but does not discover the error until after the instrument is recorded, the register of deeds may not be held liable for the instrument drafter's placement of the social security number on the instrument.

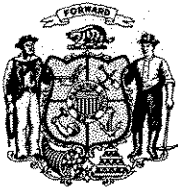
If a register of deeds records an instrument that contains an entire social security number, the ~~person who presented the instrument to the register of deeds~~ ^{drafter} is liable to the individual whose social security number appears in the instrument for damages of not more than \$5,000, plus actual damages.

The changes made in the bill do not apply to federal tax liens.

to current law

Also under this bill,

*register of
and the register of deeds
may remove or obscure
enough of the social security than
number such that no more than
the last ^{four} characters of the
number are discernable on the
instrument*



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2254/1

MES:kjf:gg

Today

PMR

2005 BILL

Register

1 AN ACT to amend 59.43 (1) (intro.); and to create 59.43 (1m) of the statutes;
2 relating to: prohibiting a register of deeds from recording certain instruments
3 that contain more than a partial social security number and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

Generally under current law, a register of deeds is required to record in his or her office any document that is authorized by law to be so recorded. Documents that are recorded in a register of deeds' office include deeds, mortgages, real estate conveyances, ~~marriage records~~, documents relating to certain security interests, and certain financial documents. In addition, a register of deeds is required under current law to make and deliver on demand, to any person who pays the required fees, a copy of any record, paper, or file in the register's office.

Under this bill, a register of deeds may not record any instrument offered for recording if the instrument contains more than the last four characters of the social security number of an individual. If a register of deeds is presented with an instrument that contains more than the last four characters of the social security number of an individual and if the register of deeds records the instrument but does not discover the error until after the instrument is recorded, the register of deeds may not be held liable for the instrument drafter's placement of the social security number on the instrument and the register of deeds may remove or obscure enough of the social security number such that no more than the last four characters of the number are discernable on the instrument.

BILL

Also under this bill, if a register of deeds records an instrument that contains an entire social security number, the instrument drafter is liable to the individual whose social security number appears in the instrument for damages of not more than \$5,000, plus actual damages.

The changes to current law made in the bill do not apply to federal tax liens.

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

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

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

2 59.43 (1) REGISTER OF DEEDS; DUTIES. (intro.) The Subject to sub. (1m), the
3 register of deeds shall:

4 **SECTION 2.** 59.43 (1m) of the statutes is created to read:

5 59.43 (1m) RESTRICTIONS ON RECORDING INSTRUMENTS WITH SOCIAL SECURITY
6 NUMBERS. (a) Except as otherwise provided in this subsection, a register of deeds may
7 not record any instrument offered for recording if the instrument contains more than
8 the last 4 characters of the social security number of an individual.

9 (b) If a register of deeds is presented with an instrument for recording that
10 contains more than the last 4 numbers of an individual's social security number, and
11 if the register of deeds records the instrument but does not discover that the
12 instrument contains more than the last 4 numbers of an individual's social security
13 number until after the instrument is recorded, the register of deeds may not be held
14 liable for the instrument drafter's placement of more than the last 4 numbers of an
15 individual's social security number on the instrument and the register of deeds may
16 remove or obscure characters from the social security number such that no more than
17 the last 4 characters of the social security number are discernable on the instrument.

BILL

1 (c) If a register of deeds records an instrument that contains the complete social
2 security number of an individual, the instrument drafter is liable to the individual
3 whose social security number appears in the recorded public document for damages
4 of not more than \$5,000, plus any actual damages resulting from the instrument
5 being recorded. A person may not be held liable for actual damages under this
6 paragraph unless the individual harmed paid or incurred any costs as a result of the
7 instrument being recorded.

8 (d) Paragraphs (a) to (c) do not apply to a federal income tax lien.

9 **SECTION 3. Initial applicability.**

10 (1) This act first applies to to an instrument that is presented to a register of
11 deeds for recording on the effective date of this subsection.

12

(END)

Northrop, Lori

From: Molepske, Louis (Legislature)
Sent: Wednesday, June 08, 2005 4:13 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2254/2 Topic: Prohibit register of deeds from recording any document with full social security numbers

It has been requested by <Molepske, Louis (Legislature)> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2254/2 Topic: Prohibit register of deeds from recording any document with full social security numbers