

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB663)

Received: **01/29/2010**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing:

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

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Courts - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Schneider@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

CCAP

Instructions:

People with full access: real estate professionals, employees of land title companies, employees of mortgage lenders or other lending institutions. Aide will talk to Aaron about how to define these people and limit their access to "for purposes of looking into their credit-worthiness."

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>
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FE Sent For:

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/1	phurley	1/2/10 1/2/10	2/10	_____	_____	_____	_____

FE Sent For:

<END>

Hurley, Peggy

From: Dumas, Aaron
Sent: Friday, January 29, 2010 4:12 PM
To: Hurley, Peggy
Subject: RE: Title professionals

Yes please. :)

From: Hurley, Peggy
Sent: Friday, January 29, 2010 4:11 PM
To: Dumas, Aaron
Subject: RE: Title professionals

Just to clarify - should I include landlords in the list?

From: Dumas, Aaron
Sent: Friday, January 29, 2010 4:07 PM
To: Hurley, Peggy
Subject: RE: Title professionals

Hmmmmm, alright. We'll let that go for now then.

From: Hurley, Peggy
Sent: Friday, January 29, 2010 3:55 PM
To: Dumas, Aaron
Subject: RE: Title professionals

Honestly, I don't know. You may want to run it past the director of state courts to see how that office would handle a request from someone who claimed to be a landlord.

From: Dumas, Aaron
Sent: Friday, January 29, 2010 3:54 PM
To: Hurley, Peggy
Subject: RE: Title professionals

Is that something that there's ultimately an administrative rule for then, or is it a problem we have to figure out now?

From: Hurley, Peggy
Sent: Friday, January 29, 2010 3:52 PM
To: Dumas, Aaron
Subject: RE: Title professionals

I can't think of any way to do that because landlords aren't licensed or registered by the state.

From: Dumas, Aaron
Sent: Friday, January 29, 2010 3:51 PM
To: Hurley, Peggy
Subject: RE: Title professionals

Sure, we think that's fine. But ultimately, if they have to get set up with an account to use the "full" website, would there be some way to verify that they are "landlords" to get the account?

From: Hurley, Peggy
Sent: Friday, January 29, 2010 3:49 PM
To: Dumas, Aaron
Subject: RE: Title professionals

Okay, good. I'll go ahead and use that, then. As far as trying to define "landlords," current statutes simply say "landlords"

and don't use a particular definition. To stay consistent, then, I think I'll just list "landlords." If that doesn't work for you, please let me know.

Peggy

From: Dumas, Aaron
Sent: Friday, January 29, 2010 3:41 PM
To: Hurley, Peggy
Subject: RE: Title professionals

Sounds great Peggy! Also, a broad definition of landlords like "someone who rents housing accommodations to another" or whatever you come up with like that would be fine. :)

Thanks,
Aaron

From: Hurley, Peggy
Sent: Friday, January 29, 2010 3:32 PM
To: Dumas, Aaron; Gary, Aaron
Subject: Title professionals

Pam Kahler suggests:

"Employees or agents of companies that provide services related to the preparation of a title report in connection with the purchase or sale of real property."

Does that work?

Peggy Hurley
Legislative Reference Bureau
608 266 8906

Hurley, Peggy

From: Gary, Aaron
Sent: Friday, January 29, 2010 3:23 PM
To: Hurley, Peggy
Subject: RE: Financial institution language for an amendment

I would think you could just say anybody acting as an employee or agent of a company providing escrow or title services in connection with the purchase or sale of real property.

From: Hurley, Peggy
Sent: Friday, January 29, 2010 2:32 PM
To: Sundberg, Christopher; Gary, Aaron; Kuczenski, Tracy
Cc: Nelson, Robert P.
Subject: RE: Financial institution language for an amendment

Is there a good way to define "land title professionals"?

So far the draft adds in "Real estate brokers and real estate salespeople licensed under s. 452.03" and "Employees or agents of a financial institution, as defined in s. 214.01 (1) (jn), a mortgage banker or mortgage broker licensed under s. 224.72, a sales finance company licensed under ss. 218.0101 to 218.0163, or a lender licensed under s. 138.09."

I haven't included the other people that Aaron (Gary) reasonably asked about in his email to the other Aaron.

I don't know what to do about the land title folks and I don't know if there's a good way to define "landlord," either. Any thoughts?

From: Sundberg, Christopher
Sent: Friday, January 29, 2010 12:13 PM
To: Hurley, Peggy; Gary, Aaron; Kuczenski, Tracy
Subject: RE: Financial institution language for an amendment

Real estate brokers and salespeople are licensed by DRL, but not real estate title professionals. But should out-of-state real estate brokers and salespeople (i.e., not licensed in WI) be able to access CCAP on the same terms as in-staters?

From: Hurley, Peggy
Sent: Friday, January 29, 2010 12:05 PM
To: Gary, Aaron; Sundberg, Christopher; Kuczenski, Tracy; Kahler, Pam
Subject: RE: Financial institution language for an amendment

Rep. Schneider also wants to add "landlords" to the list.

From: Gary, Aaron
Sent: Friday, January 29, 2010 12:04 PM
To: Sundberg, Christopher; Kuczenski, Tracy; Kahler, Pam
Cc: Hurley, Peggy
Subject: FW: Financial institution language for an amendment

Re e-mail below, mortgage lenders are obviously mine. But do you have any suggestions on the real estate & land title professionals?

Thanks.

Aaron

From: Dumas, Aaron
Sent: Friday, January 29, 2010 11:54 AM
To: Gary, Aaron
Cc: Hurley, Peggy; Kieper, Cynthia
Subject: Financial institution language for an amendment

Hi Aaron,

We're trying to draft an amendment by next Wednesday to a bill that Peggy did for us, and she thought you might be able to help with your knowledge of financial institutions. The bill is AB 663, which reforms CCAP. Part of the bill restricts records on the version of CCAP available to the general public to just convictions, findings of liability, etc. But we are defining groups of people who need CCAP for their jobs who would retain access to the current version in the course of their work. These groups include law enforcement, courts, attorneys, licensed media, and debt collectors. But we want to add real estate and land title professionals and employees of mortgage companies and other lending institutions who are investigating individuals they are working with or prospectively may be working with. Obviously, if you're dealing with credit, backgrounds are pretty important. Could you help us come up with language that defines these groups well? Thanks much!

Aaron Dumas

Office of Representative Marlin Schneider
72nd Assembly District

Aaron.Dumas@legis.wisconsin.gov

(608) 266-0215 Toll Free 1-888-529-0072

Capitol 204 North

P.O. Box 8953 Madison, WI 53708

Hurley, Peggy

From: Hurley, Peggy
Sent: Friday, January 29, 2010 3:18 PM
To: Kuczenski, Tracy; Sundberg, Christopher; Gary, Aaron
Cc: Nelson, Robert P.; Kahler, Pam
Subject: RE: Financial institution language for an amendment

Thank you, everyone, for your help on this. If I don't get it finished today, I'll finish it up on Tuesday - I have a couple of questions that Aaron Dumas is looking into. I'll be out on Monday, but if anyone has further thoughts on the amendment, please let me know. Thanks again!

Peggy

From: Kuczenski, Tracy
Sent: Friday, January 29, 2010 2:42 PM
To: Hurley, Peggy; Sundberg, Christopher; Gary, Aaron
Cc: Nelson, Robert P.; Kahler, Pam
Subject: RE: Financial institution language for an amendment

I'm forwarding this to Pam. Pam, don't you draft matters dealing with real estate title?

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

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Capitol 204 North
P.O. Box 8953 Madison, WI 53708



2009 ASSEMBLY BILL 663

January 22, 2010 - Introduced by Representatives SCHNEIDER, ROYS, A. WILLIAMS and KESSLER. Referred to Committee on State Affairs and Homeland Security.

1 **AN ACT to create** 758.20 of the statutes; **relating to:** restricting access to and
2 limiting information contained in the Consolidated Court Automation
3 Programs and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts established a consolidated electronic system. This system, known as the Consolidated Court Automation Programs (CCAP), contains information about civil and criminal cases filed in the circuit courts in this state, including information about the parties and their attorneys; documents filed; and deadlines, decisions, and outcomes of cases. CCAP also contains information on family court proceedings; probate proceedings; John Doe proceedings; reviews of certain administrative proceedings; tax warrants; mechanics', construction, condominium, or other types of liens; civil lawsuits; eviction proceedings; and domestic violence and other restraining orders and injunctions.

The information on CCAP is available for free on an Internet Web site. The Web site has no limitations on who has access to the information, although information in certain types of cases is not available to the public. CCAP allows a user to search for all civil and criminal cases in which a person or entity, who is the subject of the search, has been a party.

Currently, the initial CCAP Web page for each criminal and traffic or other civil forfeiture case contains the following statements: 1) for each criminal and traffic or other civil forfeiture case, a statement that employers may not discriminate against

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persons because of arrest and conviction records, except in certain circumstances; 2) for each criminal and traffic or other civil forfeiture case that did not result in a conviction or forfeiture, a statement that the charges were not proven and have no legal effect, and that the defendant is presumed innocent; and 3) for each traffic or other civil forfeiture case in which a forfeiture but no criminal conviction was imposed, a statement that the charge or charges in the case are not criminal offenses.

Under this bill, the director of state courts maintains a database that is accessible to the general public on the CCAP Web page and that provides case information only after a court has done one of the following: 1) makes a finding that a person is guilty of a criminal charge; 2) makes a finding that a person is liable in a civil matter; 3) orders a person to be evicted; or 4) issues a restraining order or injunction against the person.

Under the bill, the director of state courts maintains a separate database that contains public records of circuit courts and that is accessible on the CCAP Web page to judges, court commissioners, and other court or state and local agency employees, law enforcement officers and employees of law enforcement agencies, lawyers, accredited journalists, and licensed debt collectors.

Under the bill, the director of state courts removes from the database that is accessible to the general public on the CCAP Web page all information relating to a case if a finding or order related to the case or charge is reopened, vacated, set aside, or overturned on appeal.

Under the bill, if a user searches for a person’s name on CCAP and subsequently denies the person employment, housing, or another public accommodation, the user must inform the person that he or she searched for the person’s record on CCAP. A user who fails to do so may be fined \$1,000.

Also under the bill, upon the written request of a person whose case information is currently available on CCAP, the director of state courts must remove from the database that is accessible on CCAP to the general public any information relating to a case if there was no finding of criminal guilt or civil liability, an order of eviction, or the issuance of a restraining order against the person or if the finding or order was subsequently reopened, vacated, set aside, or overturned.

For further information see the *state* 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.** 758.20 of the statutes is created to read:
- 2 **758.20 Consolidated court automation programs.** (1) In this section,
- 3 “Wisconsin Circuit Court Access Internet Web site” means the Web site of the
- 4 consolidated court automation programs, which is the statewide electronic circuit

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1 court case management system established under s. 758.19 (4) and maintained by
2 the director of state courts.

3 (2) (a) The director of state courts shall maintain a database that is accessible
4 via the Wisconsin Circuit Court Access Internet Web site to every person listed in
5 sub. (3) (a) and that contains public records of the circuit courts.

6 (b) The director of state courts shall maintain a database that is accessible via
7 the Wisconsin Circuit Court Access Internet Web site to every person listed in sub.
8 (3) (b) that contains information about a case or criminal charge only after a court
9 has done one of the following:

- 10 1. Entered a finding of guilty in a criminal matter.
- 11 2. Entered a finding of liability in a civil matter.
- 12 3. Entered an order of eviction.
- 13 4. Issued a restraining order or an injunction against a person.

14 (c) The director of state courts shall remove all information relating to a case
15 or a criminal charge contained in the database under par. (b) if a finding or order
16 related to the case or criminal charge is reopened, vacated, set aside, or overturned
17 on appeal. If a new finding, judgment, or order is subsequently entered in the case
18 or criminal charge, the director of state courts may enter the information as provided
19 under pars. (a) and (b).

20 (3) (a) The following persons shall have access to the information described in
21 sub. (2) (a) and contained on the Wisconsin Circuit Court Access Internet Web site:

- 22 1. Justices, judges, magistrates, court commissioners, and other employees of
23 state, federal, or municipal courts and agencies in Wisconsin who require access to
24 court documents and records in the course of their employment.

ASSEMBLY BILL 663

1 2. Law enforcement officers as defined in s. 941.299 (1) (c) and other employees
2 of state, federal, or municipal law enforcement agencies in Wisconsin who require
3 access to court documents and records in the course of their employment.

4 3. Attorneys licensed to practice law in Wisconsin and their employees who
5 require access to court documents and records in the course of their employment.

6 4. Members of the Wisconsin Newspapers Association, the Wisconsin
7 Broadcasters Association, and any other Wisconsin media organization designated
8 by the director of state courts.

9 5. A debt collector licensed under s. 218.04.

10 (b) A person who does not meet the requirements under par. (a) may have access
11 to the information described in sub. (2) (b) and contained on the Wisconsin Circuit
12 Court Access Internet Web site.

13 (4) A person may request, in writing, that the director of state courts remove
14 from the Wisconsin Circuit Court Access Internet Web site all information relating
15 to a case or charge against the person. Upon receiving the request, the director of
16 state courts shall remove the information if it does not meet the requirements under
17 sub. (2) (b) or if the finding of guilt or liability was reopened, vacated, set aside, or
18 overturned on appeal.

19 (5) Any person who requests information from the Wisconsin Circuit Court
20 Access Internet Web site shall inform the person who is the subject of the request that
21 he or she sought information about that person if he or she denies that person
22 employment, housing, or any public accommodation. Any person who intentionally
23 fails to comply with this subsection shall be required to forfeit \$1,000 for each failure
24 to comply.

25 **SECTION 2. Initial applicability.**



JLD

ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 663

Ly
2-2-10

1 At the locations indicated, amend the bill as follows:

2 1. Page 4, line 9: after that line insert:

3 "6. Real estate brokers or real estate salespeople licensed under s. 452.03.

4

5 7. Employees or agents of a financial institution, as defined in s. 214.01 (1) (jn),
6 a mortgage banker or mortgage broker licensed under s. 224.72, a sales finance
7 company licensed under ss. 218.0101 to 218.0163, or a lender licensed under s.
8 138.09.

STET

8 8. Landlords.

9 9. Employees or agents of a company that provides services related to the
10 preparation of a title report in connection with the purchase or sale of real property.

11 (END)