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Bill Analysis

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Primary Sponsors: Reps. Abrams and Fraizer

Daniel DeSantis, Research Analyst

SUMMARY

- Modifies the manner in which designated public service worker residential and familial information is protected from disclosure as a public record.
- Allows a spouse, former spouse, or child of a designated public service worker also to request that a public office redact designated public service worker residential and familial information from any record made available to the general public on the internet.
- Establishes requirements for an Attorney General prescribed redaction request form.
- Requires a public office, under certain circumstances, to restore previously redacted information.
- Establishes a process under which certain specified persons, who have an ownership interest in real property in Ohio that is the person's residence, may submit a real property confidentiality notice to the county recorder.
- Requires a county recorder, auditor, treasurer, and engineer to bring any existing publicly available records or databases into conformity with the bill.
- Permits a designated public service worker, or the designated public service worker's spouse, former spouse, or child, when a party to a court of common pleas proceeding, to provide a real property confidentiality notice to the clerk of the court of common pleas.
- Exempts real estate brokers or real estate salespersons, land professionals, title examiners, attorneys, or county officials from liability for damages resulting from the failure to discover a defect in title, failure to properly index or record a person's interest in property, or failure to alert a professional to rely on confidential information.

DETAILED ANALYSIS

Designated public service worker residential and familial information

The bill modifies the manner in which designated public service worker residential and familial information is protected from disclosure as a public record. Under continuing law, designated public service worker residential and familial information is not a public record and is not subject to disclosure under Ohio Public Records Law.¹ The bill also exempts from disclosure a filed redaction request form (see “**Redaction request form**,” below) and a submitted real property confidentiality notice (see “**Real property confidentiality notice**,” below).² Ongoing law defines designated public service worker as all of the following:

a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, designated Ohio national guard member, protective services worker, youth services employee, firefighter, EMT, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and investigation, emergency service telecommunicator, forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, judge, magistrate, or federal law enforcement officer.³

Spouse, former spouse, or child

Under continuing law, a designated public service worker may request that a public office redact the designated public service worker’s address from any record made available to the general public on the internet.⁴ Additionally, the bill allows a spouse, former spouse, or child of a designated public service worker also to make such a request.⁵ The bill requires that the request be made via submission of a redaction request form, described below.

¹ R.C. 149.43.

² R.C. 149.43(A)(1)(p).

³ R.C. 149.43(A)(7).

⁴ R.C. 149.45(D) and 149.451(B).

⁵ R.C. 149.451(B)(1).

Redaction request form

The bill requires that the redaction request form, prescribed by the Attorney General, include spaces for the applicant to provide all of the following:

- The designated public service worker's full name, occupation, and employer;
- The applicant's full name, if the applicant is not the designated public service worker;
- The applicant's relationship to the designated public service worker, if applicable;
- The applicant's contact information;
- The nature and location of the designated public service worker residential and familial information to be redacted.⁶

Current law, repealed by the bill, requires only that the form include a place to provide any information that identifies the location of the address of the designated public service worker to be redacted.⁷ The bill appears to clarify that the responsibility of a public office is to redact the applicant's designated public service worker residential and familial information from any record the location of which is identified in the redaction request form.⁸

Restoration of redacted information

The bill requires a public office to restore previously redacted information if the public office becomes aware that the individual no longer qualifies as a designated public service worker, or the person who applied for the redaction (the designated public service worker, or the worker's spouse, former spouse, or child) submits a notarized revocation to the public office on a form prescribed by the Attorney General.⁹

Real property confidentiality notice

The bill establishes a new process for a designated public service worker to request the county auditor remove the individual's name from certain records available on the internet. Under current law, an individual, or the individual's spouse, whose residential and familial information is not a public record (i.e., a designated public service worker), may request a county auditor remove the individual's name from a record made available to the general public on the internet or a publicly accessible database, and from the general tax list and duplicate of real and public utility property, and to instead insert the individual's initials.¹⁰

⁶ R.C. 149.451(B)(2).

⁷ R.C. 149.45(D)(4).

⁸ R.C. 149.451(B)(2) and (3).

⁹ R.C. 149.451(B)(4).

¹⁰ R.C. 319.28(B).

Instead, the bill establishes a new process under which certain specified persons, who have an ownership interest in real property in Ohio that is the person's residence, may submit a real property confidentiality notice to the county recorder of the county in which the real property is located. Specified persons under the law include all of the following:

1. A designated public service worker, other than a judge or a prosecuting attorney, or the designated public service worker's spouse, former spouse, or child;
2. The spouse, former spouse, or child of a judge or a prosecuting attorney, if the real property is not the actual personal residence of the judge or prosecuting attorney.¹¹

The bill also requires a county auditor to take several actions with respect to each tract, lot, or parcel of real property for which the county auditor has redacted the name of an owner under current law. The county auditor must do all of the following:

1. Create a real property confidentiality notice concerning the tract, lot, or parcel;
2. If the county auditor intends to assign fictitious names to individuals, the county auditor must assign a fictitious name to each individual whose name was redacted from the property record, to be used for internal indexing purposes, and add the fictitious name or names to the notice, and replace each individual's initials in the county auditor's redacted records with the individual's assigned fictitious name;
3. Transmit copies of the notice to the county recorder, treasurer, and engineer.¹²

Real property confidentiality notice form

The bill requires the Attorney General to prescribe a form for use as the real property confidentiality notice. The form must include all of the following:

1. The designated public service worker's full name, occupation, and employer;
2. The applicant's full name, if the applicant is not the designated public service worker;
3. The applicant's relationship to the designated public service worker, if applicable;
4. The full name of any other person who has an ownership interest in the real property and who is a designated public service worker or the spouse, former spouse, or child of a designated public service worker;
5. The last four digits of the applicant's social security number;
6. The legal description and street address of the real property, which must be the same as the legal description and street address included on any real property instrument that includes the applicant's name and that has been presented to the county recorder for recording;

¹¹ R.C. 149.452(A)(1).

¹² Section 3(A).

7. The applicant's preferred mailing address, if different from the address of the real property;
8. The applicant's notarized signature.¹³

County recorder

When the county recorder receives a properly completed real property confidentiality notice, the county recorder promptly must do both of the following:

1. Obscure the name of the applicant and, if applicable, any other person with an ownership interest in the real property who is a designated public service worker or the spouse, former spouse, or child of a designated public service worker by assigning a fictitious name to the person and adding the fictitious name or names to the notice or by changing the name of the person to the person's initials and noting that fact on the notice;
2. Transmit copies of the notice to the county auditor, treasurer, and engineer.¹⁴

Also, a copy of the real property confidentiality notice must accompany subsequent recordings of the property unless the notice is no longer valid.¹⁵

County recorder, auditor, treasurer, and engineer

The bill requires a county recorder, auditor, treasurer, and engineer to bring any existing publicly available records or databases into conformity with the bill not later than five business days after receiving a real property confidentiality notice.¹⁶ However, the bill provides an exception for real property confidentiality notices prepared by the county auditor for real property for which a county auditor has redacted the name under current law, then subsequently prepared a real property confidentiality notice as required by the bill. For these properties, the county recorder, treasurer, and engineer must redact the information in any existing publicly available records or databases as soon as practicable after receiving the notice.¹⁷

Also, with respect to county tax maps, for any property that is subject to a real property confidentiality notice, any version of the tax maps that is available to the public must include the current owner's initials or fictitious name, as indicated in the notice, instead of the person's name.¹⁸

¹³ R.C. 149.452(A)(2).

¹⁴ R.C. 149.452(B).

¹⁵ R.C. 317.13(D).

¹⁶ R.C. 149.452(C)(2).

¹⁷ Section 3(B).

¹⁸ R.C. 5713.09(B).

Information prohibited from disclosure

The bill expressly prohibits a county recorder, auditor, treasurer, and engineer from disclosing any of the following to any person:

1. The name, telephone number, or electronic mail address of any person named in the notice, or any other information that may be used to identify a person named in the notice, in conjunction with the legal description, parcel identification number, or street address of the real property or any other information that may be used to identify the real property;
2. Any image of the signature of a person named in the notice, regardless of whether the signature is presented in conjunction with other information about the person or the person's real property.¹⁹

Clerk of the court of common pleas

Under the bill, a designated public service worker, or the designated public service worker's spouse, former spouse, or child, when a party to a court of common pleas proceeding, may provide a real property confidentiality notice to the clerk of the court of common pleas. Upon such notice, the clerk must not disclose the information described above under **"Information prohibited from disclosure."**²⁰

Authorized disclosure

Under the bill, the county recorder, auditor, treasurer, or engineer, or the clerk of the court of common pleas, may disclose the information described above under **"Information prohibited from disclosure,"** if any of the following apply:

1. The information is disclosed to the staff of the county recorder, auditor, treasurer, or engineer, or the staff of the clerk of the court of common pleas, in order to carry out the duties of the office;
2. The person who submitted the notice is the person to whom the information is to be disclosed;
3. The person who submitted the notice provides a notarized statement authorizing the disclosure to another person for a specific purpose described in the statement;
4. The person to whom the information is to be disclosed is authorized to perform a title examination (see **"Title examination exemption,"** below);
5. A court of competent jurisdiction orders the disclosure.²¹

¹⁹ R.C. 149.452(C)(1), 315.25(B), 317.13(D), 319.28(B), and 321.25.

²⁰ R.C. 149.452(C)(3) and 2303.12(B).

²¹ R.C. 149.452(D).

Title examination exemption

A person who requires access to the information described above under “**Information prohibited from disclosure**” to perform a title examination may apply to the county recorder for authorization. The person must submit to the county recorder, on a form prescribed by the Attorney General, a written application that includes all of the following:

1. The applicant’s name, title, address, and affiliated organization, if any;
2. The purpose for which the applicant is requesting access to the information;
3. The applicant’s relationship to the designated public service worker or the designated public service worker’s spouse, former spouse, or child, if any;
4. A legal description of the real property subject to the title examination;
5. A statement that the applicant will treat the information as confidential and will use the information only for the purpose identified in the application;
6. The applicant’s signature;
7. Any other information required by the Attorney General.

Within ten business days after receiving the application, the county recorder must approve or deny the application. The county recorder must approve the application if the county recorder determines that it is properly completed; that the information the applicant seeks is a subject prohibited from disclosure under the bill, and that the applicant is seeking the information only for the purpose of performing a bona fide title examination.²²

Real property confidentiality notice duration and expiration

A real property confidentiality notice is valid for five years after it is submitted to the county recorder and may be renewed in writing, on a form prescribed by the Attorney General, for additional periods of five years. Not later than six months before a real property confidentiality notice is scheduled to expire, the county recorder must mail a notice of expiration, along with a renewal form, to the person who submitted the notice at the address of the real property or, if the person indicated a preferred mailing address on the notice, at that address.²³

The county recorder, auditor, treasurer, and engineer and the clerk of the court of common pleas must cease to keep confidential the information described above under “**Information prohibited from disclosure**” and must make the information available to the public in the same manner as other information concerning real property, if any of the following occur:

²² R.C. 149.452(E).

²³ R.C. 149.452(F).

1. The person who submitted the notice ceases to hold a recorded ownership interest in the real property that is the subject of the real property confidentiality notice. When the county recorder receives notice that the person who submitted the notice has ceased to hold that ownership interest, the county recorder promptly must revoke the real property confidentiality notice and notify the county auditor, treasurer, and engineer and the clerk of the court of common pleas of that revocation;
2. The real property confidentiality notice expires under the law;
3. A court of competent jurisdiction so orders.²⁴

Notice of ownership interest

The provisions of the bill do not preclude a person's name from being recorded and indexed for the purpose of giving notice of an ownership interest, lien, or other encumbrance on real property. On such records, if the record contains the information described above under **"Information prohibited from disclosure,"** the county auditor, recorder, treasurer, or engineer, or the clerk of the court of common pleas, as applicable, must redact the legal description, parcel identification number, or street address of the real property, along with any other information that may be used to identify the real property, on any versions of the documents available to the public. The county auditor, recorder, treasurer, or engineer, for the purpose of indexing a person's records, may use the person's fictitious name or initials listed in the real property confidentiality notice, as applicable.²⁵

Safe harbor for certain professionals

The bill expressly exempts certain professionals from liability. Specifically, a real estate broker or real estate salesperson, land professional, title examiner, attorney, or county official cannot be held liable for damages resulting from the failure to discover a defect in title, failure to properly index or record a person's interest in property, or failure to alert a professional to rely on confidential information, when the failure was the proximate result of a person being a designated public service worker or the spouse, former spouse, or child of a designated public service worker, notwithstanding the negligence of the real estate broker, real estate salesperson, land professional, title examiner, attorney, or county official.²⁶

Under current law, a public office or a person responsible for a public office's public records is not liable in damages in a civil action for any harm a designated public service worker sustains as a result of the inclusion of the worker's address on any record made available to the general public on the internet. The bill repeals this specific provision of law and establishes a similar provision. Under the bill, a public office or a person responsible for a public office's public records is not liable in damages in a civil action for any harm a designated public service

²⁴ R.C. 149.452(G).

²⁵ R.C. 149.452(H).

²⁶ R.C. 149.452(I).

worker or the spouse, former spouse, or child of a designated public service worker sustains from the disclosure of information described above under “**Information prohibited from disclosure**,” unless the public office or person responsible for the public office’s public records acted with malicious purpose, in bad faith, or in a wanton or reckless manner.²⁷

HISTORY

Action	Date
Introduced	12-22-21

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²⁷ R.C. 149.45(E)(2) and 149.452(J).