

1 A bill to be entitled
2 An act relating to public records; amending s. 28.222,
3 F.S.; authorizing certain persons to access
4 information recorded in the Official Records of a
5 county which is otherwise exempt from public records
6 requirements, if specified conditions are met;
7 prescribing requirements for a person to request
8 access to such information; authorizing clerks of the
9 court to enter into limited access licensing
10 agreements to allow electronic access to official
11 records for specified parties; providing criminal
12 penalties for the unlawful use of any official record;
13 amending s. 28.2221, F.S.; deleting obsolete language;
14 prohibiting a county recorder or a clerk of the court
15 from placing information subject to specified public
16 records exemptions on a publicly available website;
17 requiring a person claiming a public records exemption
18 to request removal of information from a website in a
19 specified manner, subject to penalty of perjury;
20 prescribing procedures for restoring public access to
21 exempt information; amending s. 119.071, F.S.;
22 specifying applicability of specified public records
23 exemptions to county recorders, clerks of the court,
24 county tax collectors, and county property appraisers;
25 providing procedures for the restoration of previously

26 redacted or removed information; providing an
 27 effective date.
 28

29 Be It Enacted by the Legislature of the State of Florida:
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31 Section 1. Subsection (7) of section 28.222, Florida
 32 Statutes, is amended to read:

33 28.222 Clerk to be county recorder.—

34 (7) (a) All instruments recorded in the Official Records
 35 are ~~shall always be~~ open to the public, under the supervision of
 36 the clerk, for the purpose of inspection thereof and of making
 37 copies ~~extracts~~ therefrom; but the clerk is ~~shall~~ not be
 38 required to perform any service in connection with such
 39 inspection or making copies ~~of extracts~~ without payment of
 40 service charges as provided in s. 28.24.

41 (b) A person who seeks access, whether in person or by
 42 mail or electronic transmission, to information contained in
 43 instruments recorded in the Official Records which is exempt
 44 from public records requirements pursuant to s. 119.071 may
 45 access such information upon presenting a government-issued
 46 photo identification credential to the county recorder or clerk
 47 of the court and a notarized written request for access. The
 48 request should identify the filing number of each instrument,
 49 the name of a party to each instrument, or the description of
 50 real or personal property associated with each instrument to be

51 inspected and attest to a specific lawful purpose for requesting
52 access, which includes, but is not limited to, determining
53 marketability of title; perfecting or enforcing a lien or other
54 interest in real or personal property; and purchasing, leasing,
55 or lending involving real or personal property. The copy of the
56 government-issued photo identification credential and written
57 request may be delivered in person or by mail or electronic
58 transmission to the county recorder or clerk of the court.

59 (c) The clerk may enter into limited access licensing
60 agreements that grant users access through electronic
61 transmissions to official records that are not subject to
62 general public display. Limited access licensing agreements may
63 be made with attorneys who are members in good standing of The
64 Florida Bar; authorized title insurers, as defined in s. 624.09,
65 and their affiliates, as defined in s. 624.10; title insurance
66 agents or title insurance agencies, as defined in s. 626.841;
67 financial institutions and their affiliates, as defined in s.
68 655.005; and entities that provide access to title information,
69 tax information, and document images for insurance companies,
70 real estate and mortgage investors, attorneys, and governmental
71 agencies.

72 (d) A person who unlawfully uses any Official Record in a
73 manner not authorized in this subsection commits a misdemeanor
74 of the second degree, punishable as provided in s. 775.082 or s.
75 775.083. A person who unlawfully uses any Official Record with

76 | intent to cause bodily harm or with intent to threaten to cause
 77 | bodily harm commits a felony of the third degree, punishable as
 78 | provided in s. 775.082, s. 775.083, or s. 775.084.

79 | Section 2. Subsection (2) and paragraphs (a) and (c) of
 80 | subsection (5) of section 28.2221, Florida Statutes, are
 81 | amended, and subsection (6) is added to that section, to read:

82 | 28.2221 Electronic access to official records.—

83 | (2) ~~No later than January 1, 2002,~~ The county recorder or
 84 | clerk of the court in each county shall provide a current index
 85 | of documents recorded in the official records of the county for
 86 | the period beginning no later than January 1, 1990, on a
 87 | publicly available ~~Internet~~ website which contains ~~shall also~~
 88 | ~~contain~~ a document requisition point for obtaining images or
 89 | copies of the documents reflected in the index and which has the
 90 | capability of electronically providing the index data to a
 91 | central statewide search site. The index must include the ~~shall~~
 92 | ~~be limited to~~ grantor and grantee names, party names, date, book
 93 | and page number, comments, and type of record.

94 | (5) (a) A ~~No~~ county recorder or clerk of the court may not
 95 | place information made exempt from inspection or copying under
 96 | s. 119.071, or any ~~an~~ image or copy of a public record,
 97 | including an official record, on a publicly available ~~Internet~~
 98 | website for general public display if that information, image,
 99 | or copy is of a military discharge; death certificate; or a
 100 | court file, record, or paper relating to matters or cases

101 governed by the Florida Rules of Family Law, the Florida Rules
102 of Juvenile Procedure, or the Florida Probate Rules.

103 (c) ~~No later than 30 days after June 5, 2002,~~ Notice of
104 the right of any affected party to request removal of
105 information or records pursuant to this subsection shall be
106 conspicuously and clearly displayed by the county recorder or
107 clerk of the court on the publicly available ~~Internet~~ website on
108 which information, image, or copies of the county's public
109 records are placed and in the office of each county recorder or
110 clerk of the court. ~~In addition, no later than 30 days after~~
111 ~~June 5, 2002, the county recorder or the clerk of the court must~~
112 ~~have published, on two separate dates, a notice of such right in~~
113 ~~a newspaper of general circulation in the county where the~~
114 ~~county recorder's office is located as provided for in chapter~~
115 ~~50.~~ Such notice must contain appropriate instructions for making
116 the removal request in person, by mail, ~~by facsimile,~~ or by
117 electronic transmission. The notice must ~~shall~~ state, in
118 substantially similar form, that any person has a right to
119 request that a county recorder or clerk of the court remove
120 information or an image or a copy of a public record, including
121 an official record, from a publicly available ~~Internet~~ website
122 if that information, image, or copy is of a military discharge;
123 death certificate; or a court file, record, or paper relating to
124 matters or cases governed by the Florida Rules of Family Law,
125 the Florida Rules of Juvenile Procedure, or the Florida Probate

126 Rules. Such request must be made in writing and delivered in
127 person or by mail, ~~facsimile,~~ or electronic transmission, ~~or in~~
128 ~~person~~ to the county recorder or clerk of the court. The request
129 must identify the Official Records book and page number,
130 instrument number, or clerk's file number for any document
131 ~~identification page number of the document to be removed.~~ For
132 requests from a person claiming a public records exemption
133 pursuant to s. 119.071, the request must be written, be
134 notarized, and state under oath the statutory basis for removal
135 of the information, image, or copy that is restricted from
136 general public display, and confirm the person's eligibility for
137 exempt status. A party making a false attestation is subject to
138 the penalty of perjury under s. 837.012. A ~~No~~ fee may not will
139 be charged for the removal of a document pursuant to such
140 request.

141 (6) Any information restricted from general public display
142 under paragraph (5) (a) pursuant to a request made under s.
143 119.071 shall be restored for general public display to the
144 publicly available website at the request of any affected party
145 at any time, or at the request of any person after the passage
146 of 5 years through July 1, 2026, or the date of the most recent
147 request for the exemption, whichever is later, unless any
148 affected party makes an additional request under paragraph
149 (5) (c). The request must be made in writing and delivered in
150 person or by mail or electronic transmission to the county

151 recorder or clerk of the court. The request must identify the
152 Official Records book and page number, or instrument number, or
153 clerk's file number for any document to be restored. A fee may
154 not be charged for the restoration of a document pursuant to
155 such request.

156 Section 3. Subsection (6) is added to section 119.071,
157 Florida Statutes, to read:

158 119.071 General exemptions from inspection or copying of
159 public records.—

160 (6) APPLICABILITY.—

161 (a) The application of subsections (2), (4), and (5) to
162 official records under s. 28.222, the register of the Official
163 Records under s. 28.222(2), and the current index of documents
164 on a publicly available website under s. 28.2221(2) is limited
165 to restricting a county recorder or clerk of the court from
166 placing information that is restricted from general public
167 display on a publicly available website. Subsections (2), (4),
168 and (5) do not limit the inspection and copying of exempt
169 information at the office of the county recorder or clerk of the
170 court, or by mail or electronic transmission through a limited
171 access licensing agreement in accordance with s. 28.222(7)(b)
172 and (c). By October 1, 2021, a county recorder or clerk of the
173 court shall restore any previously redacted names of parties to
174 any instrument and may not redact the names of parties to any
175 instrument in the register under s. 28.222(2) and the current

176 index of documents under s. 28.2221(2).

177 (b) The application of this subsection to a county
178 property appraiser or county tax collector as defined in s.
179 192.001 is limited to restricting the county property appraiser
180 or county tax collector from placing the names of any individual
181 entitled to exemption in all publicly available records
182 maintained by the property appraiser or tax collector. A county
183 property appraiser or county tax collector shall restore any
184 previously redacted street address, legal description, or other
185 information identifying real property within the agency's
186 records and may not redact the street address, legal
187 description, or other information identifying real property
188 within the agency's records as long as the name of any
189 individual entitled to exemption is not associated with the
190 property or otherwise displayed in the public records of the
191 agency.

192 (c) Any information redacted or removed from general
193 public display pursuant to subsections (2), (4), or (5) shall be
194 restored to the publicly available records maintained by the
195 county property appraiser or county tax collector at the request
196 of any affected party at any time, or at the request of any
197 person after the passage of 5 years through July 1, 2026, or the
198 date of the most recent request for the exemption, whichever is
199 later. The request must be made in writing and delivered in
200 person or by mail or electronic transmission to the property

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201 | appraiser or tax collector.

202 | Section 4. This act shall take effect on July 1, 2021.