

By Senator Hooper

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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 circuit 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 information; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsection (7) of section 28.222, Florida
31 Statutes, is amended to read:

32 28.222 Clerk to be county recorder.—

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

40 (b) A person who seeks access, whether in person or by
41 electronic means, to information contained in instruments
42 recorded in the Official Records which is exempt from public
43 records requirements pursuant to s. 119.071 may access such
44 information upon presenting a government-issued photo
45 identification credential to the county recorder or clerk of the
46 court and a notarized written request for access. The request
47 should identify the filing number of the instrument, the name of
48 a party to the instrument or instruments, or the description of
49 real or personal property associated with the instruments to be
50 inspected and attest to a specific lawful purpose for requesting
51 access, which includes, but is not limited to, determining
52 marketability of title; perfecting or enforcing a lien or other
53 interest in real or personal property; and purchasing, leasing,
54 or lending involving real or personal property. The copy of the
55 government-issued photo identification credential and written
56 request may be delivered in person or by mail, facsimile, or
57 electronic transmission to the county recorder or clerk of the
58 court.

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59 (c) The clerk may enter into limited access licensing
60 agreements that grant users access to the Official Records
61 through electronic means that are not subject to general public
62 display. Limited access licensing agreements may be made with
63 attorneys who are admitted to The Florida Bar and members in
64 good standing; authorized title insurers, as defined in s.
65 624.09, and their affiliates, as defined in s. 624.10; title
66 insurance agents or title insurance agencies, as defined in s.
67 626.841; financial institutions and their affiliates, as defined
68 in s. 655.005; and entities that provide access to title
69 information, tax information, and document images for insurance
70 companies, real estate and mortgage investors, attorneys, and
71 governmental 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 in
84 each county shall provide a current index of documents recorded
85 in the official records of the county for the period beginning
86 no later than January 1, 1990, on a publicly available ~~Internet~~
87 website which shall also contain a document requisition point

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88 for obtaining images or copies of the documents reflected in the
89 index and which has the capability of electronically providing
90 the index data to a central statewide search site. The index
91 must include the ~~shall be limited to~~ grantor and grantee names,
92 party names, date, book and page number, comments, and type of
93 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 image or copy is of a
99 military discharge; death certificate; or a court file, record,
100 or paper relating to matters or cases governed by the Florida
101 Rules of Family Law, the Florida Rules of Juvenile Procedure, or
102 the Florida Probate Rules.

103 (c) ~~No later than 30 days after June 5, 2002,~~ Notice of the
104 right of any affected party to request removal of information or
105 records pursuant to this subsection shall be conspicuously and
106 clearly displayed by the county recorder or clerk of the court
107 on the publicly available ~~Internet~~ website on which images or
108 copies of the county's public records are placed and in the
109 office of each county recorder or clerk of the court. ~~In~~
110 ~~addition, no later than 30 days after June 5, 2002, the county~~
111 ~~recorder or the clerk of the court must have published, on two~~
112 ~~separate dates, a notice of such right in a newspaper of general~~
113 ~~circulation in the county where the county recorder's office is~~
114 ~~located as provided for in chapter 50.~~ Such notice must contain
115 appropriate instructions for making the removal request in
116 person, by mail, by facsimile, or by electronic transmission.

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117 The notice must ~~shall~~ state, in substantially similar form, that
118 any person has a right to request that a county recorder or
119 clerk of the court remove information or an image or copy of a
120 public record, including an official record, from a publicly
121 available ~~Internet~~ website if that information, image, or copy
122 is of a military discharge; death certificate; or a court file,
123 record, or paper relating to matters or cases governed by the
124 Florida Rules of Family Law, the Florida Rules of Juvenile
125 Procedure, or the Florida Probate Rules. Such request must be
126 made in writing and delivered in person or by mail, facsimile,
127 or electronic transmission, ~~or in person~~ to the county recorder
128 or clerk of the court. The request must identify the Official
129 Records book and page number, instrument number, or clerk's file
130 number for any document identification page number of the
131 document to be removed. For requests from a person claiming a
132 public records exemption pursuant to s. 119.071, the request
133 must be written, be notarized, and state under oath the
134 statutory basis for removal of the information, image, or copy
135 that is restricted from general public display, and confirm the
136 individual's eligibility for exempt status. A party making a
137 false attestation is subject to the penalty of perjury under s.
138 837.012. A ~~No~~ fee may not ~~will~~ be charged for the removal of a
139 document pursuant to such request.

140 (6) Any information restricted from public display under
141 paragraph (5) (a) pursuant to a request made under s. 119.071
142 shall be restored for general public display to the publicly
143 available website at the request of any affected party at any
144 time, or at the request of any person after the passage of 5
145 years through July 1, 2026, or the date of the most recent

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146 request for the exemption, whichever is later, unless any
147 affected party makes an additional request under paragraph
148 (5) (c). The request must be made in writing and delivered in
149 person or by mail, facsimile, or electronic transmission to the
150 county recorder or clerk of the court. The request must identify
151 the Official Records book and page number or instrument number
152 for any document to be restored. A fee may not be charged for
153 the restoration of any document pursuant to such request.

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

156 119.071 General exemptions from inspection or copying of
157 public records.—

158 (6) APPLICABILITY.—

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

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

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

200 Section 4. This act shall take effect July 1, 2021.