

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

960P0639

HOUSE BILL NO. 1295

Introduced by: Representatives Olson (Russell), Carson, Kirkeby, Olson (Betty), Rounds, Sigdestad, and Turbiville and Senators Bartling, Albers, Dempster, Olson (Ed), and Schmidt (Dennis)

1 FOR AN ACT ENTITLED, An Act to establish certain provisions regarding instruments filed
2 with the register of deeds that may contain personally identifiable information.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Personally identifiable information," one or more of the following specific unique
6 identifiers when combined with an individual's name:

7 (a) Social security number;

8 (b) Checking, savings, or share account number; or

9 (c) Credit, debit, or charge card number;

10 (2) "Preparer," the person or entity who creates, drafts, edits, revises, or last changes the
11 document that is recorded with the county register of deeds. The term, preparer, does
12 not include any person who hires, requires, refers, pays, or requests that the
13 documents be drafted or recorded;

14 (3) "Redact" or "redaction," the process of removing personally identifiable information



1 from documents.

2 Section 2. The preparer of a document may not include an individual's personally
3 identifiable information in a document that is prepared and presented for recording in the county
4 office of the register of deeds. However, this does not include any document that was executed
5 by an individual prior to July 1, 2008. Unless provided otherwise by law, any document
6 described by this Act is subject to inspection and copying by the public.

7 Section 3. The register of deeds shall post a notice in the county office of register of deeds
8 stating that any instrument recorded in the real property or official public records or the
9 equivalent of the real property or official public records of the county:

- 10 (1) Is not required to contain a social security number; and
11 (2) Is a public record available for review by the public.

12 Section 4. If a document that includes an individual's personally identifiable information was
13 recorded with the register of deeds and is available on the county's internet website, the
14 individual may request that the register redact such information from the website. The register
15 of deeds shall establish a procedure by which individuals may request that any personally
16 identifiable information be redacted from the internet record available on the county's internet
17 website, at no fee to the requesting individual. The register of deeds shall redact the personally
18 identifiable information within five days of the receipt of the request, or sooner, if ordered to
19 do so by the court.

20 Section 5. Any preparer who, in violation of this Act, enters personally identifiable
21 information in a document that is prepared and presented for recording is liable to the individual
22 whose personally identifiable information appears in the recorded public document for actual
23 damages of up to five hundred dollars for each act of recording.

24 Section 6. This Act does not apply to a preparer of a state or federal tax lien, a military

1 separation or discharge record, or a death certificate that is prepared for recording in the county
2 office of the register of deeds. If a military separation or discharge record or a death certificate
3 is recorded in the county office of the register of deeds, the military separation or discharge
4 record or the death certificate may not be accessible through the internet.

5 Section 7. The register of deeds may not under any circumstances reject an instrument
6 presented for recording solely because the instrument fails to comply with this Act. Other than
7 the duty to redact an individual's personally identifiable information as required by section 4 of
8 this Act, the register of deeds has no duty to ensure that an instrument presented for recording
9 does not contain an individual's social security number or other personally identifiable number.

10 Section 8. Any instrument described by this Act is subject to inspection by the public. The
11 register of deeds is not criminally or civilly liable for disclosing an instrument or information
12 in an instrument in compliance with the public record laws of the state of South Dakota.