

Texas House Bill 2061.

This bill became law March 28, 2007. It requires a notice to: any individual who grants or gets an interest in Texas real estate. The notice tells the individual that he or she can delete any social security number or driver's license from any recordable document. An individual is a human being, as opposed to a corporation, which is not an individual.

This notice does not have to be included on any recordable if there are no individuals as part of the transaction. The notary does not count, though many of them are fine individuals. It's just that the notary does not grant or take title to the real estate.

This notice must be on the top of the first page of any recordable document, but the Texas county recorders have to record a document whether the notice is there or not.

This change is effective immediately (March 28, 2007).

WKFS will change its software and paper forms as soon as we reasonably can.

In the interim, attached is a Microsoft Word document that you can add to the front of your deeds of trust or other recordable real estate documents.

The margins will satisfy your recording requirements, though we don't know that this page needs to be recorded.

You can get your individual grantors on any deed of trust or other recordable instrument to initial the bottom of this form. If you use an individual as your Trustee, the Trustee should initial too, but since they never show up at the closing that will be difficult. But then lenders never use an individual as their Trustee, so that should not be a problem. If you do use an individual as your trustee, the initialing process is not mandatory, so don't worry about it. You should keep a copy of initialed page in the file.

You can send an initialed original to your recorder with your deed of trust. It should not have to be recorded, but it can be recorded as part of your larger document.

We doubt that anyone has been including social security numbers or driver's license numbers on any recordable documents for many years, and we certainly don't believe you will do so now. So there should be no need for your individuals to delete anything from any current documents.

Here is the part of Texas House Bill that affects us:

(c) Notwithstanding Section 191.007(c), Local Government Code, an instrument transferring an interest in real property to or from an individual [~~and disclosing that individual's social security number or driver's license number~~] must include a notice that appears on the top of the first page of the instrument in 12-point boldfaced type or 12-point uppercase letters and reads substantially as follows:

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY [THIS] INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

(d) [(e)] The validity of an instrument as between the parties to the instrument and the notice provided by the instrument are not affected by a party's failure to include the notice required under Subsection (c) [(b)].

(e) [(d)] The county clerk may not under any circumstance reject an instrument presented for recording solely because the instrument fails to comply with this section. Other than the duty to redact an individual's social security number as required by Section 552.147, Government Code, the county clerk has no duty to ensure that an instrument presented for recording does not contain an individual's social security number.