



Information Shielding Laws & Real Estate FAQs & Best Practices



The title and land records industries recognize limiting access to certain personal information in government records can help protect the safety of at-risk groups. The best way to shield sensitive information is to limit who has access to the protected data, without removing or altering vital public records.

What is an information shielding or redaction law?

Information shielding and redaction laws protect individuals with recognized safety concerns (for example, law enforcement officers, judges or victims of domestic violence or abuse) by restricting access to, or limiting the publication of, certain personal information in government records or online databases.

What information is shielded?

Records containing the combination of an individual's name with an additional data element, such as home address, personal phone number or email address, are shielded from public view. This minimizes the potential to use this information to locate an at-risk party and inflict harm.

How do these laws work with public records?

State programs with minimized impact on the public records have taken one of two approaches:

1. In [Arizona](#), an eligible person files an affidavit with the court to prohibit the general public from accessing personal information. If approved by the court, an order is issued directing the clerk to prohibit public access to the information. The prohibition on public access expires after a period of time, generally 4-6 years. Access for real estate/title professionals is available.
2. In [Minnesota](#), an eligible person files an application with a state agency, usually the Attorney General or Secretary of State, to certify eligibility for the program. Once certified, a participant may file a notice to prohibit public access to government records containing personal information. Access for real estate/title professionals is available.

The methods above provide effective solutions that balance protecting at-risk parties and allowing necessary access to public records. Other approaches, such as full redaction, are less effective and can lead to potential unintended consequences such as permanently impacting the integrity of land records, non-uniform shielding procedures, creating a false sense of security for the protected party, and the inability to buy, sell or finance property. The title industry wants to ensure that these laws do not have adverse consequences for the very people they are designed to protect.

County property recorders have the responsibility to implement and adhere to these laws and adequate funding is required to ensure effective shielding processes.

How are public records used in real estate transactions?

When it comes to an individual's ability to buy, sell, and own real property, access to public land and tax records is essential. Land records prove ownership and show when the property is subject to a mortgage, judgment, or other encumbrance. Public records are accessed, reviewed, and used in every real estate transaction, including refinancing of home loans. Ineffective redaction laws will impair an at-risk individual's ability to buy, sell or take out loans on their property.

How do shielding laws affect public records and real estate transactions?

Record shielding laws must accommodate records access for companies providing real estate transaction services for at-risk individuals. Shielded information must be available to real estate and title insurance professionals and lenders to facilitate the transaction, minimize consumer costs, ensure trustworthy land transfers, and allow for timely real estate closings. The consumer information acquired by professionals in a real estate transaction is subject to the protections of the Gramm-Leach-Bliley Act, which limits subsequent transfer and use.

Additionally, record shielding can impede enforcement of a court judgement (including a judgement for spousal or child support) or a lien against an individual when essential information within these instruments is shielded from notice.

Permanent redaction of essential information from these records can also negatively impact future transactions involving those properties and permanently diminish the integrity of the public record.

What are best practices to approach information shielding?

The following best practices represent an approach that achieves protections for at-risk individuals without impeding the transfer or financing of real estate or creating a risk for fraud.

- Permitted access should be available to:
 - Someone with a signed release from the protected individual or court order;
 - Licensed professionals with existing consumer privacy/confidentiality requirements (attorneys, title professionals, assessors, etc.);
 - Licensed entities with a signed confidentiality agreement with a government entity.
- State-wide uniform standards and processes must be followed to ensure all records pertaining to an individual are properly shielded.
- Names contained in a record index must not be shielded or redacted. Records must be discoverable within the public records index, which should include a flag indicating that the document has been shielded.
- Shielding requests should be time limited to minimize long-term impact on the real estate conveyancing system and ensure the continued accuracy of the public records. A renewal request can be submitted every four to six years.
- A process for record restoration must exist to facilitate real estate transactions and transfers, or administration of a will.
- Authorized access to shielded government records should be available electronically, as well as in-person, to allow for social distancing measures and, absent a public health necessity, to accommodate access for non-local authorized parties.
- Government entities and third parties should maintain robust records to track and log access of shielded records.