



## FAQs & Best Practices for Public Record Privacy Protections



*The title and land records industries recognize limiting access to the combination of name and address information in government records can help protect the safety of statutorily defined parties. The best way to protect this information is to limit who has access to the data, without removing or altering vital public records.*

### **What is an address confidentiality, public record privacy, or redaction law?**

While programs and processes may vary, these laws or programs are designed to protect statutorily defined individuals (for example, law enforcement officers, judges or victims of domestic violence or abuse) by restricting access to, or limiting the publication of the combination of name and address information through government records disclosure or online database access.

### **What information is shielded?**

Records containing the combination of name with additional location data, 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 a protected individual 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 their personal information. If approved by the court, an order is issued directing the county clerk to prohibit public access to the information. The prohibition on public access expires after several years. Access to the unredacted record providing constructive notice is available for real estate/title professionals.
2. In [Minnesota](#), there is an address confidentiality program known as Safe at Home. In a state with an address confidentiality program, 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 distribute forms to all entities involved in a real estate transaction, requiring the privatization of address information. Government entities are prohibited from sharing, or making public, the person's name in conjunction with their address unless they have signed consent to share the information for a specified purpose.

The methods above provide effective solutions that balance protecting statutorily defined parties while at the same time allowing necessary access to unredacted records providing constructive notice. Other legislative or program approaches, such as full redaction, are less effective and can lead to potential unintended consequences. State or county property recorder officials that have responsibility to implement and adhere to these requirements should have adequate funding to ensure effective protection protocols are in place.

### **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 privacy protection laws affect public records and real estate transactions?**

Public record privacy protection laws must accommodate necessary access to unredacted records for companies providing real estate transaction services for statutorily defined parties. There must be mechanisms for unredacted records, providing relevant constructive notice, to be shared with 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. This can be accomplished in various ways depending on state law, including having the protected party sign a limited release permitting the sharing of data. 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.

Permanent redaction of essential information from public records can negatively impact future real estate transactions and permanently diminish the integrity of the public record. Additionally, permanent removal of information from public records can impede enforcement of a court judgment (including a judgment for spousal or child support) or a lien against an individual and creates greater risk for fraud.

### **What are best practices?**

Depending on the approach of state laws, the following best practices allow statutorily defined protected parties to transfer or finance real estate:

- A process to allow disclosure of the unredacted record providing constructive notice to a specific entity or for permissioned access to be made 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 a statutorily defined party are properly protected.
- Names or designated identifiers contained in a record index must not be hidden or redacted. Records must be discoverable within the public records index, which should include a flag indicating that the document is subject to statutory privacy protections.
- Privacy protection requests should be recognized only as long as someone is part of an address confidentiality program or considered a statutorily defined protected party. Privacy protections should be time limited to minimize long-term impact on the real estate conveyancing system and ensure the continued accuracy of the public records. As necessary, 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 unredacted records providing constructive notice should be available electronically, as well as in-person, to accommodate access for non-local authorized parties.
- Government entities and third parties should maintain robust records to track and log access of protected records.