



Aida S. Montano

Bill Analysis
Legislative Service Commission

Sub. H.B. 279

126th General Assembly
(As Reported by H. Civil and Commercial Law)

Reps. Hughes, Seitz, Coley, Willamowski, Core, Mason

BILL SUMMARY

- Creates the offense of "defacing identification marks of a firearm" by prohibiting any person from changing, altering, removing, or obliterating the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on a firearm.
- Creates the offense of "possessing a defaced firearm" by prohibiting any person from possessing a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.
- Generally prohibits the preparer of any document to be recorded by a county recorder from including any individual's social security number in any copy of the document that is filed for recording in the county recorder's office and the county recorder from accepting a copy of such a document for recording if it includes any individual's social security number, and provides that the prohibitions do not apply if an individual who executes such a document executes an affidavit consenting to the inclusion of the individual's social security number in the document.
- Provides that a preparer is not liable in damages for harm allegedly sustained by an individual by inclusion of the individual's social security number on a copy of such document if the preparer establishes an affirmative defense that the preparer made a good faith effort to comply with the bill.
- Grants qualified civil immunity to the county recorder and to the recorder's employees for harm sustained by an individual as a result of

the county recorder or employee accepting a copy of a document that includes the individual's social security number.

- Specifies certain types of documents that are excluded from the bill's prohibitions and provides that the bill does not apply to documents executed prior to its effective date.

CONTENT AND OPERATION

Offenses regarding defacing firearms

Defacing identification marks of a firearm

The bill prohibits any person from changing, altering, removing, or obliterating the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on a firearm. A violation of this prohibition is "defacing identification marks of a firearm," a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to defacing identification marks of a firearm, a felony of the fourth degree. (R.C. 2923.201(A)(1) and (B)(1).) (See **COMMENT 1**.)

Possessing a defaced firearm

The bill prohibits any person from possessing a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated. A violation of this prohibition is "possessing a defaced firearm," a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to possessing a defaced firearm, a felony of the fourth degree. (R.C. 2923.201(A)(2) and (B)(2).)

Nonapplicability of prohibitions

The bill provides that the prohibition against defacing identification marks of a firearm and the prohibition against possessing a defaced firearm, as described above, do not apply to any firearm on which no manufacturer's serial number was inscribed at the time of its manufacture (R.C. 2923.201(C)).

Prohibitions regarding inclusion of social security numbers on documents submitted to county recorder for recording; affidavit of consent

The bill generally prohibits the "preparer" (defined below) of any document to be recorded by a county recorder under R.C. 317.08 (see **COMMENT 2**) from including any individual's social security number in any copy of the document that

is filed for recording in the office of the county recorder under that section. The bill generally prohibits a county recorder from accepting a copy of such a document for recording if it includes any individual's social security number. The bill permits an individual who executes a document a copy of which must be filed by a preparer for recording in the office of the county recorder to execute an affidavit consenting to the inclusion of the individual's social security number in the document. If an individual executes such an affidavit, the above prohibitions do not apply to the preparer of the document or to the county recorder and the county recorder's employees. (R.C. 317.082(B) and (C).)

The bill defines "preparer" as any mortgage company, bank, title agency, or other person responsible for filing documents with the office of a county recorder for recording under R.C. 317.08 (see **COMMENT 2**) (R.C. 317.082(A)).

Affirmative defense of preparer

The bill provides that the preparer is not liable in damages in a civil action for any harm an individual allegedly sustains as a result of the inclusion of the individual's social security number on a copy of a document in violation of the bill if the preparer establishes as an affirmative defense that the preparer made a good faith effort to comply with the bill (R.C. 317.082(B)).

Qualified civil immunity of county recorder and employees

Under the bill, the county recorder and the county recorder's employees are immune from liability in damages in a civil action brought against the county recorder or an employee of the county recorder to recover damages for any harm an individual allegedly sustains as a result of the county recorder or an employee of the county recorder accepting a copy of a document that includes the individual's social security number *unless* the county recorder or an employee of the county recorder accepted that copy with malicious purpose, in bad faith, or in a wanton or reckless manner or R.C. 2744.03(A)(6)(a) or (c) applies (see **COMMENT 3**). (R.C. 317.082(B).)

Exclusions; prospective application

The bill does not apply to any of the following: (1) any document that originates with any court or taxing authority, (2) any document that upon its filing for recording in the office of the county recorder under R.C. 317.08 constitutes a nonconsensual lien against an individual, or (3) any publicly recorded document that is required by federal or state law to include an individual's social security number. The bill does not apply to documents that were executed by an individual prior to the bill's effective date. (R.C. 317.082(D) and (E).)

COMMENT

1. As used in the Weapons Offenses Law, which would include the offenses enacted by the bill, "firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable. When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm. (R.C. 2923.11(B)--not in the bill.)

2. Generally, the county recorder keeps six separate sets of records as follows (R.C. 317.08(A) to (F), not in the bill):

(a) A record of deeds, in which are recorded: (i) all deeds and other instruments of writing for the absolute and unconditional sale or conveyance of lands, tenements, and hereditaments, (ii) all notices as provided in the Marketable Record Title Law, (iii) all judgments or decrees in actions to quiet title, (iv) all declarations and bylaws, and all amendments to declarations and bylaws, as provided in the Condominium Law, (v) affidavits on facts relating to title, (vi) all certificates pertaining to the removal of property from the provisions of the Condominium Law, (vii) all articles dedicating archaeological preserves accepted by the Director of the Ohio Historical Society, (viii) all articles dedicating nature preserves accepted by the Director of Natural Resources, (ix) all agreements for the registration of lands as archaeological or historic landmarks, (x) all conveyances of conservation easements and agricultural easements, (xi) all instruments extinguishing agricultural easements or pursuant to terms of such an easement granted to a charitable organization, (xii) all instruments or orders pertaining to certain mineral interests in real property, (xiii) all no further action letters issued under the Brownfield Revitalization Law or the Voluntary Action Program Law, (xiv) all covenants not to sue issued under the Voluntary Action Program Law, including all covenants not to sue issued pursuant to the Brownfield Revitalization Law, (xv) any restrictions on the use of property contained in a no further action letter issued under the Brownfield Revitalization Law, any restrictions on the use of property identified under the Voluntary Action Program Law, and any restrictions on the use of property contained in a deed or other instrument as provided in the Petroleum Underground Storage Law, (xvi) any easement executed or granted under certain provisions of the Solid and Hazardous Wastes Law, (xvii) any environmental covenant entered into in accordance with the Environmental Covenants Law, (xviii) certain memoranda of trust that

describe specific real property, and (xvix) certain agreements entered into under the Coastal Erosion Loan Program Law;

(b) A record of mortgages, in which are recorded: (i) all mortgages, including amendments, supplements, modifications, and extensions of mortgages, or other instruments of writing by which lands, tenements, or hereditaments are or may be mortgaged or otherwise conditionally sold, conveyed, affected, or encumbered, (ii) certain executory installment contracts for the sale of land, (iii) generally all options to purchase real estate, including supplements, modifications, and amendments of the options, and (iv) any tax certificate sold under the law dealing with negotiated purchases of tax certificates, or memorandum of it, that is presented for filing of record;

(c) A record of powers of attorney, including certain memoranda of trust that do not describe specific real property;

(d) A record of plats, in which are recorded all plats and maps of town lots, of the subdivision of town lots, and of other divisions or surveys of lands, any center line survey of a highway located within the county, and all drawings and amendments to drawings under the Condominium Law;

(e) A record of leases, in which are recorded all leases, memoranda of leases, and supplements, modifications, and amendments of leases and memoranda of leases;

(f) A record of living wills and durable powers of attorney for health care.

Generally, the county recorder also keeps a separate set of records containing all corrupt activity lien notices filed with the recorder and a separate set of records containing all medicaid fraud lien notices filed with the recorder (R.C. 317.08(H)).

The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in R.C. 1513.33, 1513.37, 3752.13, 5111.021, and 5311.08. (R.C. 317.08.)

3. Under R.C. 2744.03(6)(a) and (c), not in the bill, the civil immunity of an employee of a political subdivision under the Political Subdivision Sovereign Immunity Law does not apply if the employee's acts or omissions were manifestly



outside the scope of the employee's employment or official responsibilities or civil liability is expressly imposed upon the employee by a section of the Revised Code.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-26-05	p. 875
Reported, H. Civil & Commercial Law	10-26-05	pp. 1798-1799

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