

HB1028_L.004

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB25-1028 be amended as follows:

1 Amend printed bill, page 4, strike lines 3 through 8 and substitute:

2 "(11.5) "SHIELDING" MEANS, WITH RESPECT TO A REAL PROPERTY
3 RECORD ACCEPTED FOR RECORDING BY A STATE OR LOCAL GOVERNMENT
4 AGENCY:

5 (a) IN THE CASE OF AN ELECTRONIC RECORD OR DATA, TO REDACT
6 THE PROGRAM PARTICIPANT'S NAME FROM PUBLIC ACCESS; AND

7 (b) IN THE CASE OF A PHYSICAL RECORD, TO LIMIT PUBLIC ACCESS
8 TO THE RECORD IN ACCORDANCE WITH THE PROCESS DEVELOPED BY THE
9 EXECUTIVE DIRECTOR PURSUANT TO SECTION 24-30-2108.5 (6).".

10 Page 8, strike lines 18 through 27 and substitute:

11 **"24-30-2108.5. Confidentiality of real property records of**
12 **program participants - use of nominee - shielding - rules.**

13 (1) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF AUTHORIZED
14 PURSUANT TO THIS SECTION, A PROGRAM PARTICIPANT MAY ACQUIRE OR
15 TRANSFER AN INTEREST IN REAL PROPERTY IN THE STATE IN THE NAME OF
16 A NOMINEE. A PROGRAM PARTICIPANT MAY APPLY TO THE EXECUTIVE
17 DIRECTOR OR THEIR DESIGNEE FOR AUTHORIZATION TO HOLD AN INTEREST
18 IN REAL PROPERTY IN THE NAME OF A NOMINEE. THE PROGRAM
19 PARTICIPANT MUST SUBMIT THE APPLICATION ON A FORM APPROVED BY
20 THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE, WHICH MUST INCLUDE:

21 (I) THE PARTICIPANT'S FULL LEGAL NAME, INCLUDING MIDDLE
22 NAME, AND ANY OTHER NAMES THE PARTICIPANT USED IN THE PREVIOUS
23 TEN YEARS;

24 (II) THE PARTICIPANT'S SUBSTITUTE ADDRESS;

25 (III) THE LEGAL DESCRIPTION AND STREET ADDRESS OF THE REAL
26 PROPERTY TO BE HELD IN THE NAME OF THE NOMINEE;

27 (IV) THE NAME OF THE NOMINEE IN WHOM THE INTEREST IN REAL
28 PROPERTY MAY BE HELD; AND

29 (V) THE PARTICIPANT'S SIGNATURE.

30 (b) IF THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE FINDS THAT
31 THE APPLICATION IS COMPLETE AND THAT THE NOMINEE MEETS THE
32 QUALIFICATIONS TO BE A NOMINEE AS ESTABLISHED BY RULE, THE
33 EXECUTIVE DIRECTOR OR THEIR DESIGNEE SHALL ISSUE TO THE
34 PARTICIPANT A CARD AUTHORIZING THE PARTICIPANT TO USE THE NAME
35 OF THE NOMINEE IN ACQUIRING OR TRANSFERRING REAL PROPERTY IN THE
36 STATE. THE EXECUTIVE DIRECTOR SHALL ADOPT RULES ESTABLISHING
37 MINIMUM QUALIFICATIONS TO BE A NOMINEE PURSUANT TO THIS SECTION.

38 (c) THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE SHALL

1 MAINTAIN A LIST OF THE PARTICIPANTS RECEIVING AUTHORIZATION
2 PURSUANT TO THIS SECTION. THE LIST MUST INCLUDE FOR EACH
3 PARTICIPANT:

4 (I) THE PARTICIPANT'S FULL LEGAL NAME;
5 (II) THE NAME OF THE PARTICIPANT'S AUTHORIZED NOMINEE; AND
6 (III) THE LEGAL DESCRIPTION AND STREET ADDRESS OF THE REAL
7 PROPERTY HELD IN THE NAME OF THE NOMINEE.

8 (2) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF
9 AUTHORIZED PURSUANT TO THIS SECTION, A PROGRAM PARTICIPANT WHO
10 HOLDS AN OWNERSHIP INTEREST IN REAL PROPERTY AT THE TIME THEY
11 ENTER THE ADDRESS CONFIDENTIALITY PROGRAM MAY REQUEST THAT A
12 STATE OR LOCAL GOVERNMENT AGENCY SHIELD THE PROGRAM
13 PARTICIPANT'S EXISTING REAL PROPERTY RECORDS CONCERNING THAT
14 PROPERTY. A PROGRAM PARTICIPANT MAY REQUEST THE SHIELDING OF A
15 REAL PROPERTY RECORD AFTER ITS RECORDING BY SUBMITTING TO A
16 STATE OR LOCAL GOVERNMENT AGENCY:

17 (I) A REAL PROPERTY ACP NOTICE; AND
18 (II) SUFFICIENT INFORMATION TO IDENTIFY THE REAL PROPERTY
19 THAT IS THE SUBJECT OF THE RECORDS THAT THE PROGRAM PARTICIPANT
20 SEEKS TO SHIELD.

21 (b) A REAL PROPERTY ACP NOTICE SUBMITTED PURSUANT TO THIS
22 SUBSECTION (2) APPLIES TO ANY REAL PROPERTY RECORD THAT CONCERNS
23 THE PROPERTY IDENTIFIED IN THE REAL PROPERTY ACP NOTICE.

24 (c) A PROGRAM PARTICIPANT SHALL SUBMIT TO THE EXECUTIVE
25 DIRECTOR OR THEIR DESIGNEE A COPY OF ANY REAL PROPERTY ACP
26 NOTICE SUBMITTED TO A STATE OR LOCAL GOVERNMENT AGENCY
27 PURSUANT TO THIS SUBSECTION (2).

28 (d) THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE SHALL MAKE A
29 REAL PROPERTY ACP NOTICE FORM AVAILABLE TO PROGRAM
30 PARTICIPANTS. THE REAL PROPERTY ACP NOTICE FORM MUST INCLUDE:

31 (I) THE FULL LEGAL NAME OF THE PROGRAM PARTICIPANT,
32 INCLUDING THEIR MIDDLE NAME;

33 (II) THE PROGRAM PARTICIPANT'S ADDRESS CONFIDENTIALITY
34 PROGRAM AUTHORIZATION NUMBER;

35 (III) THE SUBSTITUTE ADDRESS;

36 (IV) A DESCRIPTION OF THE PROPERTY THAT IS THE SUBJECT OF
37 THE REAL PROPERTY RECORDS THAT THE PROGRAM PARTICIPANT
38 REQUESTS TO SHIELD; AND

39 (V) THE PROGRAM PARTICIPANT'S SIGNATURE.

40 (e) A REAL PROPERTY ACP NOTICE IS NOT A PUBLIC RECORD FOR
41 PURPOSES OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE
42 72 OF THIS TITLE 24.

43 (3) (a) (I) EXCEPT AS AUTHORIZED PURSUANT TO SUBSECTION

1 (3)(b) OF THIS SECTION, THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE
2 SHALL NOT DISCLOSE THAT A PROGRAM PARTICIPANT IS AUTHORIZED TO
3 USE THE NAME OF A NOMINEE PURSUANT TO SUBSECTION (1) OF THIS
4 SECTION AND SHALL NOT DISCLOSE ANY INFORMATION ON THE LIST
5 MAINTAINED PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION.

6 (II) EXCEPT AS AUTHORIZED PURSUANT TO SUBSECTION (3)(b) OF
7 THIS SECTION, A STATE OR LOCAL GOVERNMENT AGENCY OR AN EMPLOYEE
8 OF AN AGENCY SHALL NOT DISCLOSE A PROGRAM PARTICIPANT'S NAME IN
9 RELATION TO A SHIELDED ELECTRONIC REAL PROPERTY RECORD AND
10 SHALL NOT DISCLOSE UNIQUE LOCATION INFORMATION RELATED TO A
11 SHIELDED PHYSICAL REAL PROPERTY RECORD.

12 (b) THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE MAY DISCLOSE
13 THAT A PARTICIPANT IS AUTHORIZED TO USE THE NAME OF A NOMINEE
14 PURSUANT TO SUBSECTION (1) OF THIS SECTION OR MAY AUTHORIZE
15 DISCLOSURE OF UNIQUE LOCATION INFORMATION OR REAL PROPERTY
16 RECORDS THAT HAVE BEEN SHIELDED PURSUANT TO SUBSECTION (2) OF
17 THIS SECTION IF:

18 (I) THE PROGRAM PARTICIPANT EXPRESSLY CONSENTS TO THE
19 DISCLOSURE IN WRITING FOR THE PURPOSES THAT THE PARTICIPANT
20 SPECIFIES IN WRITING;

21 (II) THE DISCLOSURE IS REQUIRED PURSUANT TO A COURT ORDER;

22 (III) THE DISCLOSURE IS AUTHORIZED PURSUANT TO THE PROCESS
23 DEVELOPED BY THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (6)
24 OF THIS SECTION; OR

25 (IV) THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE RECEIVES A
26 REQUEST FOR INFORMATION REGARDING THE PARTICIPANT'S REAL
27 PROPERTY RECORDS FOR THE PURPOSE OF PERFORMING A BONA FIDE TITLE
28 EXAMINATION. THE REQUEST MUST INCLUDE:

29 (A) THE NAME, TITLE, ADDRESS, AND AFFILIATED ORGANIZATION,
30 IF APPLICABLE, OF THE PERSON REQUESTING THE INFORMATION;

31 (B) THE PURPOSE FOR REQUESTING THE INFORMATION;

32 (C) THE REQUESTOR'S RELATIONSHIP, IF ANY, TO THE PROGRAM
33 PARTICIPANT WHO IS THE SUBJECT OF THE REQUEST;

34 (D) THE LEGAL DESCRIPTION OF THE REAL PROPERTY THAT IS
35 SUBJECT TO THE TITLE EXAMINATION;

36 (E) THE REQUESTOR'S SIGNATURE; AND

37 (F) ANY OTHER INFORMATION REQUIRED BY RULE OF THE
38 EXECUTIVE DIRECTOR OR THEIR DESIGNEE.

39 (c) (I) THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE SHALL
40 PROVIDE A WRITTEN RESPONSE APPROVING OR DENYING A REQUEST
41 RECEIVED PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION WITHIN TWO
42 BUSINESS DAYS AFTER RECEIVING THE REQUEST.

43 (II) IN RESPONDING TO AN APPROVED BONA FIDE REQUEST

1 PURSUANT TO SUBSECTION (3)(b)(IV) OF THIS SECTION REGARDING USE OF
2 AN AUTHORIZED NOMINEE, THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE
3 SHALL RESPOND BY AN AFFIRMATION IN WRITING THAT THE REAL
4 PROPERTY THAT IS THE SUBJECT OF THE TITLE EXAMINATION IS OR IS NOT
5 OWNED BY THE PROGRAM PARTICIPANT AND HELD IN THE NAME OF THE
6 PARTICIPANT'S AUTHORIZED NOMINEE. A PERSON EXAMINING A TITLE MAY
7 RELY CONCLUSIVELY ON THE INFORMATION CONTAINED IN A WRITTEN
8 AFFIRMATION FROM THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE.

9 (4) INFORMATION DISCLOSED PURSUANT TO THIS SECTION MAY BE
10 USED ONLY FOR THE PURPOSES AUTHORIZED IN THIS SECTION AND MAY
11 NOT BE FURTHER DISCLOSED TO ANY OTHER PERSON. A PERSON WHO
12 RECEIVES INFORMATION PURSUANT TO THIS SECTION SHALL ESTABLISH
13 PROCEDURES TO PROTECT THE INFORMATION FROM FURTHER DISCLOSURE.

14 (5) NOTHING IN THIS SECTION PROHIBITS A STATE OR LOCAL
15 GOVERNMENT AGENCY OR AN EMPLOYEE OF AN AGENCY FROM RETURNING
16 AN ORIGINAL DEED, INSTRUMENT, OR OTHER REAL PROPERTY RECORD TO
17 THE INDIVIDUAL WHO SUBMITTED THE RECORD FOR RECORDING.

18 (6) THE EXECUTIVE DIRECTOR SHALL ADOPT RULES ESTABLISHING
19 THE PROCESS FOR SHIELDING A PHYSICAL REAL PROPERTY RECORD
20 PURSUANT TO THIS SECTION. THE RULES MUST ESTABLISH A PROCESS BY
21 WHICH A SHIELDED PHYSICAL REAL PROPERTY RECORD IS PROTECTED
22 FROM PUBLIC ACCESS AND MUST ALSO ESTABLISH A PROCESS FOR
23 GRANTING ACCESS TO A SHIELDED PHYSICAL REAL PROPERTY RECORD
24 AFTER CONSULTATION WITH THE PROGRAM DIRECTOR."

25 Strike pages 9 through 11.

26 Page 12, strike lines 1 through 10.

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