



MEMORANDUM 2022-02

April 29, 2022

To: Ohio Domestic Violence Network
County Auditors' Association of Ohio
Ohio Recorders' Association
Ohio Land Title Association
Ohio Clerk of Courts Association
Ohio Prosecuting Attorneys Association
County Boards of Elections
Ohio REALTORS
Ohio Bankers League
Ohio Government Finance Officers Association

Re: Changes to the Safe at Home Program Resulting from H.B. 93

BACKGROUND

Earlier this year, the Ohio General Assembly passed [Substitute House Bill 93](#) ("H.B. 93") to strengthen the Secretary of State's Safe at Home program. Safe at Home is an address confidentiality program that helps survivors of domestic violence, human trafficking, stalking, rape, and sexual battery shield their personal information from public records. H.B. 93 increases the effectiveness of Safe at Home by enabling program participants to engage in real estate transactions without having their personal information in the public record. This Memorandum provides an overview of changes to the Safe at Home program that will take effect on April 29, 2022.

SUMMARY

I. PROOF OF SAFE AT HOME PARTICIPATION

The Secretary of State's Office assigns Safe at Home program participants a substitute post office box address that they can use in place of their actual addresses. The Secretary of State's Office also issues a program authorization card to participants, which includes the address at which the program participant may receive mail through the office of the Secretary of State.¹ Previously, a program participant could provide the card to governmental entities as proof of their participation in the program but was not required to do so.

¹ [R.C. 111.42](#).

H.B. 93 requires the program participant to provide the program authorization card whenever they request a government entity, other than a board of elections, to use the substitute address. If a program participant makes such a request and shows the card as proof of their participation in Safe at Home, the governmental entity must accept the substitute address.² A program participant may also request that a private entity use the substitute address, but the law does not require a private entity to accept it.³

II. CHANGE OF RESIDENCE NO LONGER NECESSARY TO JOIN SAFE AT HOME

Previously, an applicant for Safe at Home could participate only if they were changing residence. H.B. 93 eliminates that requirement. An applicant who meets all other qualifications may participate in Safe at Home without moving.

This specific change impacts eligibility to participate in Safe at Home – it is not directly related to the new program for participants who acquire real property. Moreover, a participant’s real property records are not eligible for the newly enacted confidentiality scheme if the participant owned the property before entering the Safe at Home program.⁴

III. REAL ESTATE TRANSACTIONS

A. REAL PROPERTY CONFIDENTIALITY NOTICE

H.B. 93 allows a Safe at Home program participant who purchases real property after becoming a program participant (and after April 29, 2022) to prevent the participant’s property records from being disclosed to the public.⁵ The change in law provides a way for a government office that needs to maintain records about a program participant’s actual residence, such as a county auditor, to keep the participant’s property records confidential.

1. COUNTY RECORDER

A Safe at Home program participant who acquires an ownership interest in real property may submit a Real Property Confidentiality Notice (“RPCN”) to the county recorder of the county where the real property is located. The RPCN (“Form SAH-RPCN”) includes all of the following:

- The participant’s full name;
- The last four digits of the participant’s Social Security number;
- The date the participant’s program certification expires;
- The participant’s program participant identification number;
- The address at which the participant may receive mail through the Secretary’s Office;
- The legal description and street address of the real property, which must be the same as the legal description and street address included on any instrument, such as a deed,

² [R.C. 1111.43\(A\)](#). Ohio law contains few exceptions to the requirement for a government entity to accept a substitute address. For example, a municipal-owned public utility is excluded from the requirement to use a substitute address under R.C. 111.43(F).

³ [R.C. 111.43\(C\)](#).

⁴ [R.C. 111.42](#) and [111.431](#).

⁵ [R.C. 111.43\(B\)](#).

concerning the real property that includes the participant's name and that has been presented to the county recorder for recording;

- A fictitious name, chosen by the Secretary of State's Office using a random name generator, which may be used by county officials for internal indexing and recordkeeping purposes;
- The participant's signature; and
- Basic instructions for the county officer who receives the RPCN.

The county recorder must then transmit copies of the RPCN to the Secretary of State and to the county auditor, treasurer, and engineer in the county where the real property is located.⁶ To minimize any potential disclosure through computer systems, please transmit these copies via certified mail.

Upon receiving the RPCN, the county recorder, auditor, treasurer, or engineer must remove any confidential information from publicly available records or databases within five business days.⁷

2. CLERK OF THE COURT OF COMMON PLEAS

Additionally, a program participant may deliver an RPCN to the court of common pleas if the participant is a party to a proceeding there. The clerk must notify the Secretary of State's Office that the clerk received the RPCN.⁸

3. REQUIRED CONFIDENTIALITY

Government offices that have received an RPCN must not disclose the program participant's name or contact information in connection with the property's address, legal description, or parcel number. For example, the program participant's name and contact information must be redacted from the property's listing in the publicly available version of the county auditor's property tax database or the county recorder's database of property ownership records.⁹ The county auditor, recorder, treasurer, or engineer, for the purpose of indexing a program participant's records, may use the program participant's fictitious name listed in the program participant's real property confidentiality notice.¹⁰ If a member of the public requests a copy of a property record, the property's address, legal description, or parcel number or the program participant's name, as applicable, must be redacted.

County recorders must include a copy of the RPCN with any subsequent recordings of the property, such as mortgages, liens, easements, and other types of property records, unless the person who acquired the property is no longer a participant in Safe at Home.¹¹ The Secretary of

⁶ [R.C.111.431\(B\)](#).

⁷ [R.C.111.431\(C\)\(1\)](#).

⁸ [R.C.111.431\(C\)\(2\)](#).

⁹ [R.C.111.431\(C\)\(1\)](#), [149.43](#), [315.25](#), [317.13](#), [319.28](#), [321.25](#), and [2303.12](#).

¹⁰ [R.C.111.431\(G\)](#).

¹¹ [R.C.111.431\(G\)](#) and [317.13](#).

State's Office will provide the county recorder, among others, notice when a program participant's certification in Safe at Home is canceled.¹²

4. PERMITTED LIMITED DISCLOSURE BY A COUNTY OFFICIAL

A county recorder, auditor, treasurer, or engineer or the clerk of the court of common pleas may disclose a Safe at Home program participant's complete property record only under the following circumstances:¹³

- The record is disclosed to the staff of the public official in order to carry out the duties of the office;
- The program participant is the person requesting the record;
- The official received written notice from the Secretary of State's Office that the participant has filed a valid Release of Property Record ("Form SAH-RPR") with the Safe at Home Division to disclose specific information to a specific person.
- The Secretary of State's Office authorized the person to perform a title examination on the property (see **TITLE EXAMINATIONS** below); and
- A court of competent jurisdiction orders the disclosure.

5. END OF CONFIDENTIALITY

If the participant ceases to own the property, submits a notarized revocation of the confidentiality notice to the county recorder, or has the participant's certification cancelled, then the information concerning the participant's interest in the property is no longer confidential. The Secretary of State's Office will notify the relevant county officials within ten business days of canceling the participant's program certification in Safe at Home.¹⁴

If a county recorder receives notice that a participant has ceased to hold an ownership interest in the property that was held confidential, the recorder must promptly revoke the RPCN and notify the Secretary of State, and the county auditor, treasurer, and engineer of that revocation.¹⁵

B. TITLE EXAMINATIONS

H.B. 93 contains a provision for granting access to the confidential information within an RPCN that may be required to perform a title examination. If property is subject to a confidentiality notice, such as when the program participant is selling the property, the title examiner must apply for disclosure with the Secretary of State's Safe at Home Division by filing a Disclosure for a Title Examination ("Form SAH-DTE"). The person applying for a Disclosure for a Title Examination must include basic information about themselves and the firm for which they work, the purpose for which the person is applying, the person's relationship to the participant, a legal description of

¹² [R.C. 111.45\(B\)\(2\).](#)

¹³ [R.C.111.431\(D\).](#)

¹⁴ [R.C. 111.45\(B\).](#)

¹⁵ [R.C. 111.431\(F\)\(1\).](#)

the property, the person’s signature, information about the person’s professional licensure, and a statement that the person will treat the information as confidential.¹⁶

The Secretary of State’s Office will approve the application within ten business days if it is properly completed and the Secretary’s Office determines that the person is seeking the information only for the purpose of performing a bona fide title examination. If the property is not subject to a confidentiality notice, the Secretary will instead notify the person of that fact within ten business days and, if applicable, notify local officials of that fact.¹⁷

C. QUALIFIED IMMUNITY FOR REAL ESTATE PROFESSIONALS AND COUNTY OFFICIALS

The new law contains a provision the states a real estate broker, real estate salesperson, oil and gas land professional, title examiner, attorney, or county official is not liable for damages resulting from the person’s failure to discover a defect in title, failure to properly index or record a person’s interest in property, or failure to alert a professional to rely on confidential information, when that failure was the proximate result of an individual’s participation in the Safe at Home program, unless the person was negligent.¹⁸

D. CITY LAW DIRECTOR ACCESS

H.B. 93 allows a city law director or similar chief legal officer to petition the Franklin County Court of Common Pleas or the court of common pleas of the county in which a parcel of real property is located for access to information that is subject to a real property confidentiality notice. The court must hold a hearing and, if necessary, notify the county recorder, auditor, treasurer, engineer, or clerk of the court of common pleas of the county in which the real property is located. The law director must prove a legitimate governmental purpose to receive the information. Continuing law allows a city law director or similar chief legal officer to obtain a program participant’s confidential address or telephone number from the Secretary of State’s Office using a similar process.¹⁹

A law director or similar chief legal officer who intends to follow the process above may request the Secretary of State’s Office to confirm whether the person is a program participant. The Secretary of State’s Office will provide that confirmation within ten business days after receiving the request.²⁰

IV. AUTHORIZED RELEASE OF CONFIDENTIAL INFORMATION

H.B. 93 also creates a process by which a Safe at Home program participant may submit a form, Authorization to Release Confidential Information (“SAH-ARCI”), authorizing the Secretary of State’s Office to disclose the participant’s information to certain persons, including a judge or magistrate, an official or employee of the Bureau of Motor Vehicles, a school administrator, an administrator of a public assistance program, an administrator of a food pantry,

¹⁶ [R.C. 111.431\(E\)\(1\) and \(2\)](#).

¹⁷ [R.C. 111.431\(E\)\(3\)](#).

¹⁸ [R.C. 111.431\(H\)](#).

¹⁹ [R.C. 111.46](#).

²⁰ [R.C. 111.46\(B\)](#).

an official or employee of the U.S. Postal Service, or any other person identified on the form with a proper purpose. Within ten business days after receiving the form, the Secretary of State's Office will determine whether the authorization is adequate, then disclose the information if appropriate.²¹

For example, if a school district needs to confirm that a program participant lives in the district for enrollment purposes, the participant may authorize the Secretary's Office to confirm to a district official that the participant lives in the district, without exposing the family's actual address. The law specifies that a person authorized to receive confidential information may request only the information that is required under normal circumstances. A person may not require a program participant to authorize a disclosure as a condition of receiving any services to which the participant is otherwise entitled.²²

V. CHILD CUSTODY AND CHILD SUPPORT PROCEEDINGS

Under the new law, a program participant who is a parent, guardian, or legal custodian and is a party to a child custody or child support proceeding is entitled to notice and an opportunity for a hearing before the participant's confidential address or telephone number may be disclosed. This requirement applies when another party to the proceeding requests that information or when the court seeks to disclose the information on its own, without being asked to do so.²³

If another party to the proceeding requests the information, the court must direct the requesting party to file a pleading explaining why the disclosure is necessary. Before allowing the disclosure, the court must schedule a hearing, provide a copy of the pleading to the program participant, and give the parties adequate notice of the hearing. The party requesting the disclosure then must show, by clear and convincing evidence, that the disclosure is necessary and does not pose a risk of harm to the participant or the child. If the party requesting the disclosure meets this burden and the court grants the request, the court must document its findings of fact and may either disclose the information or direct the program participant to do so.²⁴

If the court seeks to disclose the information on its own motion, the court still must schedule a hearing and give the parties adequate notice of the hearing. If the court determines by clear and convincing evidence that the disclosure is necessary and does not pose a risk of harm to the participant or the child, the court must document its findings of fact and may either disclose the information or direct the participant to do so.²⁵

²¹ [R.C. 111.43\(E\)](#).

²² [R.C. 111.43\(E\)](#).

²³ [R.C. 111.46\(D\)](#).

²⁴ [R.C. 111.46\(D\)](#).

²⁵ [R.C. 111.46\(D\)](#).

VI. PENALTY FOR DISCLOSING CONFIDENTIAL INFORMATION

H.B. 93 adds to the criminal prohibitions against disclosing a Safe at Home program participant's confidential information. The new law includes the following prohibitions:

- No public official who has access to a confidential address or telephone number, or to information that is subject to a real property confidentiality notice, because of the person's status as a public official may knowingly disclose that information to any person, except as required or permitted by law. A "public official" is any officer, employee, or duly authorized representative or agent of a public office. A "public office" is any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of Ohio for the exercise of any function of government.
- No person who obtains a confidential address or telephone number from the Secretary of State pursuant to a disclosure authorized by the program participant, as described above, may knowingly disclose that information to any person, except for the purpose for which the disclosure was authorized.
- No person who obtains information that is subject to a real property confidentiality notice for the purpose of conducting a title examination may knowingly disclose that information to any person, except for the purpose identified in the application to conduct a title examination.

Whoever knowingly discloses confidential information in violation of the prohibitions above is guilty of a first-degree misdemeanor.²⁶

In short, the law prohibits a person who obtains a program participant's confidential information from a government office from redisclosing the information. However, no criminal penalty applies to a private party who discloses a program participant's confidential information after receiving it directly from the program participant. For example, if a program participant buys a house and files a real property confidentiality notice with the county recorder, the new law would penalize county officials and staff if they disclosed certain information. The law would *not* penalize the program participant's real estate agent or banker for disclosing that information. However, other privacy laws still require those persons to keep clients' information confidential.²⁷

VII. CONCLUSION

This memorandum is an overview of the changes in Safe at Home law resulting from H.B. 93. The Secretary of State's [website for Safe at Home](#) includes additional resources and the forms for complying with H.B. 93's changes and Safe at Home in general.

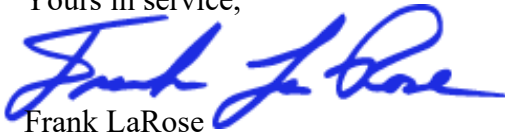
²⁶ [R.C. 111.99](#).

²⁷ *See*, for example, R.C. 4735.54 and 15 U.S.C.A. §6802.

Finally, while we all do our best to protect survivors of domestic violence and human trafficking from any additional harm, many survivors are not aware of all the resources the state could provide, like Safe at Home. Sometimes, the disconnect is due to a shortage of community organizations in different areas of the state that have heard about the program, have signed up, and received training in this unique field of Ohio law. If you know of an agency in Ohio that serves survivors of domestic violence and human trafficking that might like to partner with Safe at Home, please encourage them to reach out to the Safe at Home Division.

If you have any questions regarding this Memorandum, please contact the Secretary of State's Safe at Home Division at (614) 995-2255.

Yours in service,



Frank LaRose
Ohio Secretary of State