



Office of the Secretary of State

December 1, 2017

The Honorable Lawrence J. Hogan, Jr.
Governor of Maryland
The State House, 100 State Circle
Annapolis, Maryland 21401

The Honorable Thomas V. Mike Miller, Jr.
President, Senate of Maryland
H-107 State House
Annapolis, Maryland 21401

The Honorable Michael E. Busch
Speaker, Maryland House of Delegates
State House H-101
Annapolis, MD 21401

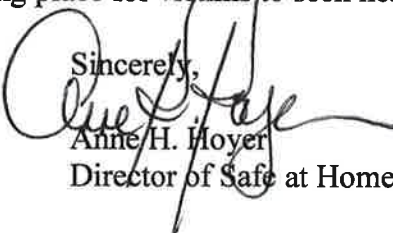
RE: SB1047/Ch. 602, 2016 Legislative Session-MSAR #10944

Dear Governor Hogan, Senate President Miller, and House Speaker Busch:

Please accept this final report on behalf of the Task Force to Study Recording Deeds for Victims of Domestic Violence, created by Chapter 602, Acts of 2016, to determine how to protect the identity and address of participants in the Maryland Safe at Home Address Confidentiality Program during the transfer of real property. This final report reflects stakeholder testimony, research, thorough discussion and careful deliberation that resulted in the development of a deed shielding procedure that will provide for the transparency required of property records without compromising the safety of victims.

On behalf of the Safe at Home Address Confidentiality Program, I wish to express heartfelt gratitude to every member of the task force for selflessly donating their valuable time, resources and intellect to this study and to Senator Susan Lee and Delegate Anne Healey for their commitment to victims of domestic violence and their support of this endeavor.

Thank you, gentlemen, for establishing the task force creating this unique opportunity for legislators, State and local agencies, financial institutions, title companies and domestic violence advocates to work together to make Maryland a safer, more inviting place for victims to seek healing and stability in community.

Sincerely,

Anne H. Hoyer
Director of Safe at Home Program

cc. Sarah Albert, Department of Legislative Services (5 copies)

Deed Recording for Victims of Domestic Violence

Final Report

Task Force to Study Recording Deeds for Victims of Domestic Violence
Secretary of State John C. Wobensmith, Chair

MSAR #10944
December 1, 2017

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Acknowledgements

The members of the task force gratefully acknowledge the many stakeholders and community members who generously contributed their time, insight and expertise to this project, including: Pete Fenton, Chief Deputy Clerk, Anne Arundel County Circuit Court; LaTonya Day, Collections Supervisor, City of Annapolis; Bruce Miller, Director of Finance, City of Annapolis; Amy Craig, Dorchester County Clerk of the Circuit Court; Barbara Meiklejohn, Montgomery County Clerk of the Circuit Court; Dorsey Hile, Recordation and Transfer Tax Administrator; Karin McQuade, Controller; Helen Shomberg, Assistant Controller; Darcy Goode, Tax Billing Manager; Lynda Wood, Real Property Tax Administrator; Allegera Wynn, Revenue Collections Manager; Maria Furigay, Utility Billing and Customer Service Manager; Laura Brentzel, Customer Service Supervisor; Sharon Burke, Lands Records Supervisor; Kita Sorrell-Camper, SDAT of Queen Anne's County; Eric Jackson, Charles County Government Chief of Treasury; Dale Dewine, SDAT; Diane Johnson, Talbot County Assessment Office, Daphne Halling, Baltimore County Assessment Office; Sean Powell, as director of SDAT; Della Stull, SDAT; Bryan Robb, Corridor Mortgage Group; Garrett Haslinger and Logan Haarz of the Law Office of Brett Dieck, LLC; Sydney Harrison, Prince George's County Circuit Court Clerk; and Gary Maragos, Department of Planning.

We recognize Dianna Umidon and Julie Strother of the Minnesota Safe at Home Address Confidentiality Program for inspiring this deed shielding procedure, answering countless questions, and blazing the trail for safe home ownership for victims in every State.

We appreciate April Morton for participating in task force meetings and drafting our recommendation into a bill and Laura Lodge for her patience and careful edits.

Deed Recording Task Force Members

The members of the Task Force to Study Recording Deeds for Victims of Domestic Violence included legislators and representatives from State agencies, title companies, financial institutions, and domestic violence organizations. The task force sought input from experts and other stakeholders, including participants in the Safe at Home Address Confidentiality Program, private mortgage lenders, local finance offices, and other State agencies not formally represented on the task force.

John C. Wobensmith, Chair

Secretary of State of Maryland

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Maryland Senate

Delegate Anne Healey

Maryland House of Delegates

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Old Line Title Company, Inc.

Dorothy Lennig

Director, Marjorie Cook Domestic Violence
Legal Clinic, House of Ruth Maryland

Frederick Smalls

Maryland Municipal League

April Miller Maenner

Maryland Association of Counties

Michael Lore

Chief of Staff, Senator Susan Lee

Executive Summary

The Maryland Safe at Home Address Confidentiality Program (ACP), legislated in 2006 and administered by the Secretary of State, protects victims of domestic violence, human trafficking, stalking and sexual assault by providing them with a substitute address to use as a legal residential, school, or work address when interacting with State and local government. The ACP prevents abusers from locating their victims with a public records search. It has been an important part of a safety plan for over 2,200 victims in Maryland, allowing them to seek stability as survivors, without the need to move from place to place constantly fleeing their abusers. However, under current Maryland law, when a program participant purchases a home the deed is recorded publicly and the victim's primary location becomes easily discoverable by the abuser.

The General Assembly passed SB 1047 authorizing the Task Force to Study Recording Deeds for Victims of Domestic Violence (Chapter 602, Acts of 2016) with Secretary of State John C. Wobensmith to serve as its chair. The members were charged with determining how to protect the identity and address of victims when recording a deed transferring real property to or from an ACP program participant.

The members of the task force convened six (6) times from November 1, 2016 until November 15, 2017. Every meeting was open to the public. Meeting minutes are attached as Appendix C. At least one stakeholder or community member not on the task force attended each meeting and was given the opportunity to address the group. At the first meeting, the task force members divided into four (4) subgroups to report back on the following topics: effects on delays in title searches; financing and preferred vendors; private companies and existing ACP law; and review of other public records created during a real property transaction. At the following meeting, the task force narrowed the best options for deed shielding for victims to two: purchasing property through a revocable trust or implementing a process which shields recorded documents from public disclosure. The group decided against the revocable trust option due to uncertainty regarding trust ownership and the ability of ACP participants to obtain home mortgage loans. The group instead chose to draft provisions for shielding real property records similar to the process used successfully in the state of Minnesota since 2014. The chosen process requires that, upon being presented notice from an ACP participant, Clerks, private entities, and State and local agencies shield recorded documents from public access and refrain from disclosing identifying information. Over the past months, task force members developed the deed shielding process, polished the draft bill attached as Appendix A, and ensured that every stakeholder, including those not formally on the task force, had been adequately represented.

Senator Susan Lee and Delegate Anne Healey each offered to be the lead sponsor of legislation on behalf of the task force in the Senate and House, respectively.

Introduction

Address confidentiality programs protect victims of domestic violence, human trafficking, stalking, and sexual assault by providing the victim with a substitute address to use as their legal residential, school, or work address to prevent abusers and traffickers from locating their victims. Address confidentiality programs exist in over thirty states. With the passage of Senate Bill 25 and House Bill 1056 during the 2006 legislative session, Maryland became the twentieth state to adopt an address confidentiality program. In 2014, the Maryland General Assembly passed Senate Bill 818 and House Bill 559 which expanded the program to victims of human trafficking.

Participants in Maryland's ACP designate the Secretary of State as their agent for service of process and receipt of first-class, certified, or registered mail. The Secretary of State provides cost-free mail forwarding to ACP participants from the substitute address to an address indicated by the participant. Participants may use their substitute address when interacting with State and local government.

The ACP only works for victims who have moved to an address unknown to the abuser or trafficker. If a State or local record has already been created, the ACP is not effective in keeping an individual's address confidential. Specific procedures are in place for the Board of Elections, Board of Education, and the Motor Vehicle Administration. Purchasing real property, however, puts victims at risk as recorded documents, containing the victim's name and address, are accessible to the public. Former ACP participants testified to fearing for their safety after purchasing property because they did not realize that their address would be exposed. A current ACP participant witnessed her abuser search public records online until he found the address of one of his "enemies". This participant has desired to buy a home for many years, but she will not make that purchase until she is confident that doing so will not put her life at risk.

Observations

Land records must be readily accessible and searchable to allow for title searches, whether for litigation or title examinations, which identify the ownership and location of parcels of land. Maryland's real property records are indexed by name. Redacting an ACP participant's name from property records or using an alias conflicts with this requirement.

The task force reviewed several options. The use of an LLC was rejected because financing would be difficult to obtain. Another alternative was the use of a revocable trust. Establishing a revocable trust on behalf of a participant would protect the identity of a victim since trust documents are private and the beneficiary is not stated on the instrument recorded in the land records. However, participants using a revocable trust would only be beneficiaries, not owners of the real property. Moreover, participants might not be eligible for certain home owner tax credits and might be limited in available financing. Determining who would administer the trust for participants is also challenging. Creating a homeownership program with a revocable trust option within the address confidentiality program, naming the Secretary of State as trustee is beyond the scope of the Secretary of State's role as administer of the ACP. In addition, the trustee would have to sign the deed and be present at the current and future settlements, even if the victim were no longer a participant in the address confidentiality program. Ultimately, it was decided that these barriers made the revocable trust option too costly and burdensome to both the State and the victim.

Recommendation

The task force determined that the best option was to establish a deed shielding procedure that removes a deed and other recorded documents from public access, but allows for a bona fide title search. Under the proposed system, the participant presents a Real Property ACP Notice with the deed to the Clerk of the Circuit Court. The deed will be executed like any other deed, taxed, and scanned and indexed into the recording system just as any other record. A page stating “Shielded Document” with instructions to contact the Office of the Secretary of State to request permission to view the instrument will be scanned over the first page of the document. “Page Intentionally Left Blank” will be scanned over each subsequent page as a place holder for when the document is no longer shielded, and the original instrument can be scanned into its proper place in the index. The Clerk will send a certified copy of the deed with the cover sheet to the State Department of Assessments and Taxation (SDAT), prompting their internal shielding procedure. Any other State agency that generates public records receives their information from SDAT, so any tax map, parcel product or other public record will reflect SDAT’s shielded records. Participants will provide a similar notice to all parties involved in the home buying process, instructing them to treat their name and any other identifying information as confidential and to refrain from selling or disclosing to anyone without specific written consent from the participant. All mailed correspondence, including water and electricity bills, will be sent to the participant’s substitute address. This deed shielding option will protect victims, uphold the integrity of State records, and allow necessary access to the land records.

Requests to view recorded documents shielded under this program must be made to the Office of the Secretary of State, which must provide written consent or denial within two business days. If an individual identified in a Real Property ACP Notice ceases to participate in the ACP, the Office of the Secretary of State will provide written notice to the Clerk of the Circuit Court and the Maryland State Archives. The shielded real property records will then be made public.

Minnesota is the only state that allows for the privatization of all records associated with the purchase and ownership of real property by a participant in an address confidentiality program. They use a deed shielding system similar to the one recommended above. Since the passage of the Minnesota law in 2014, approximately sixty (60) participants have successfully purchased property without revealing their location in the public records. Maryland, with a population size similar to Minnesota’s, has less than half the number of Minnesota’s ACP participants, and expects fewer than ten (10) participants a year to purchase property using the deed shielding procedure. Expanding Maryland’s law to include provisions for deed shielding will be neither time-consuming nor burdensome for State and local agencies, nor will it interfere with the housing market.

The task force considered input from several public and private entities prior to finalizing its recommendations to create a deed shielding process and to expand ACP to cover private entities. The deed shielding process was presented before the Conference of Circuit Court Clerks, Tax Affinity Group, and several representatives from local tax and finance offices. The proposal was well received among these groups and their input was useful in determining one

uniform procedure to be implemented across all counties. The Maryland State Archives and the State Department of Assessments and Taxation have developed internal shielding procedures.

With regard to the task force's recommendation to expand coverage to include private entities, no special provisions are needed for financial institutions since an existing federal administrative ruling already exempts ACP participants from having to provide their actual residential address to financial institutions. On November 3, 2009, the United States Department of the Treasury, Financial Crimes Enforcement Network (FinCEN) authorized an exemption for participants in address confidentiality programs from the usual USA PATRIOT Act requirement that people provide their actual residential address for bank account records. A copy of the federal administrative ruling is attached to this final report as Appendix B. In order to be successful in shielding the real property records from becoming public, Maryland's law must be expanded to require that private entities keep an ACP participant's information confidential. Many private entities already do so voluntarily upon request by the participant, and the task force encountered no opposition to this proposal. The deed shielding procedure is neither costly nor time-consuming for stakeholders. The majority of the burden falls on the ACP participant to present notice to every party involved in the home buying process. The Office of the Secretary of State is committed to educating ACP participants and supporting them through the process. ACP participants are accustomed to similar procedures that prevent their information from being exposed when records are published during interactions with other State and local agencies.

Conclusion

The most efficient way to allow victims of domestic violence to purchase real property without compromising their safety is to keep their identity and address from being recorded publicly. The task force recommends (1) a deed shielding procedure by which Circuit Court Clerks, private entities and State and local agencies shield recorded documents and any identifying information from public records and (2) expansion of the ACP law to keep private entities from selling or disclosing identifying information of an ACP participant without written consent from the participant. The process would stay in place until the participant no longer needs protection. The task force drafted their recommendation as a bill to be introduced during the 2018 legislative session. A copy of the draft legislation is attached to this final report as Appendix A.

Appendix A. Draft Legislation, LR0039, as of November 29, 2017

N1, D4

8lr0039

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Departmental

Typed by: Manuel

Stored – 11/29/17

Proofread by _____

Checked by _____

By: **Leave Blank (By Request – Secretary of State)**

A BILL ENTITLED

AN ACT concerning

**Secretary of State – Address Confidentiality Programs – Shielding of Real
Property Records**

FOR the purpose of enabling certain private entities to accept the use of a certain substitute address by a participant of a certain address confidentiality program; enabling a participant of a certain address confidentiality program to use a certain substitute address for all purposes; requiring the Secretary of State to give written notice to the clerk of the circuit court within a certain number of days after a certain individual ceases to be a participant in a certain address confidentiality program, under certain circumstances; authorizing an individual who acquires an ownership interest in real property while participating in a certain address confidentiality program to request the shielding of real property records concerning the property in accordance with certain provisions of law; prohibiting a person from knowingly and intentionally obtaining the actual address or telephone number of a participant in a certain address confidentiality program from the clerk of the circuit court or any private entity without authorization to obtain the information; prohibiting a certain person from knowingly and intentionally disclosing the actual address or telephone number of a participant in a certain address confidentiality program except under certain circumstances; prohibiting a person from knowingly disclosing the name, home address, work address, or school address of a participant in a certain address confidentiality program after receiving a certain notice under certain circumstances; establishing certain rules for service of process and service by publication on a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



participant of a certain address confidentiality program; requiring a participant of a certain address confidentiality program to present a certain notice to the clerk of the circuit court and the appropriate county finance office in order to request the shielding of certain real property records; specifying the contents of the notice; requiring a participant of a certain address confidentiality program to submit a copy of the notice to the Secretary of State; specifying the instruments to which the notice applies; requiring a participant of a certain address confidentiality program to use a separate certain notice for each property in which the participant acquires an ownership interest; requiring the clerk of the circuit court to provide a copy of the notice to certain agencies; providing that the notice is not a public record within the meaning of certain provisions of law; prohibiting a clerk of the circuit court or any State or local agency that receives the notice from disclosing certain information in conjunction with the property identified in the notice, except under certain circumstances; providing that the prohibition on disclosure shall continue until a certain occurrence; requiring the clerks of the circuit courts to establish certain uniform statewide procedures for recording deeds and other instruments to comply with this Act; requiring certain agencies to establish procedures for maintaining tax records in accordance with this Act; authorizing the Secretary of State to authorize the disclosure of real property records that have been shielded under certain provisions of law for the purpose of performing a bona fide title examination, under certain circumstances; providing that nothing in this Act may be interpreted to require the Secretary of State to identify other agencies that may possess information on a participant of a certain address confidentiality program or a clerk of the circuit court or other State or local agency to independently determine whether it maintains information on a participant of a certain address confidentiality program; providing that nothing in this Act may be interpreted to prohibit the clerk of the circuit court or any State or local agency from sharing certain information with the Secretary of State for the purpose of facilitating compliance with this Act; requiring the Secretary of State to adopt regulations to carry out certain provisions of law; defining certain terms; and generally relating to address confidentiality programs administered by the Secretary of State.

BY repealing and reenacting, without amendments,

Article – Family Law

Section 4–519, 4–521 through 4–524, and 4–527 through 4–528

Annotated Code of Maryland

(2012 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 4–520, 4–525 through 4–526, and 4–529 through 4–530

Annotated Code of Maryland

(2012 Replacement Volume and 2017 Supplement)

BY adding to

Article – Real Property

New part designation “Part I. General Provisions” to immediately precede Section 3–101, Section 3–112 through 3–113, and Section 3–114 through 3–120 to be under the new part “Part II. Recordation of Instruments for Address Confidentiality Program Participants”

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 7–301, 7–303 through 7–306, and 7–309 through 7–310

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 7–302, 7–307 through 7–308, and 7–311 through 7–312

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the new part designation “Part I. General Provisions” be added to immediately precede Section 3–101 of Article – Real Property of the Annotated Code of Maryland.

SECTION 2. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Family Law

4–519.

(a) In this Part IV of this subtitle the following words have the meanings indicated.

(b) “Actual address” means a residential street address, school address, or work address of an individual, as specified on the individual’s application to be a Program participant under this part.

(c) “Disabled person” has the meaning stated in § 13–101 of the Estates and Trusts Article.

(d) “Program” means the Address Confidentiality Program.

(e) “Program participant” means a person designated as a Program participant under this part.

4–520.

The purpose of this part is to enable:

(1) State and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence;

(2) interagency cooperation in providing address confidentiality for victims of domestic violence; [and]

(3) State and local agencies **AND PRIVATE ENTITIES** to accept a Program participant’s use of an address designated by the Office of the Secretary of State as a substitute address; **AND**

(4) A PROGRAM PARTICIPANT TO USE AN ADDRESS DESIGNATED BY THE OFFICE OF THE SECRETARY OF STATE AS A SUBSTITUTE ADDRESS FOR ALL PURPOSES.

4–521.

The Secretary of State shall establish and administer an Address Confidentiality Program for victims of domestic violence.

4–522.

(a) Any of the following individuals may apply to participate in the Program:

- (1) an individual acting on the individual’s own behalf;
- (2) a parent or guardian acting on behalf of a minor who resides with the parent or guardian; or
- (3) a guardian acting on behalf of a disabled person.

(b) An application to participate in the Program shall be in the form required by the Secretary of State and shall contain:

- (1) a statement that:
 - (i) the applicant is a victim of domestic violence; and
 - (ii) the applicant fears for the applicant’s safety or the safety of the applicant’s child;
- (2) evidence that the applicant is a victim of domestic violence, including:
 - (i) certified law enforcement, court, or other federal or State agency records or files;
 - (ii) documentation from a domestic violence program; or
 - (iii) documentation from a religious, medical, or other professional from whom the applicant has sought assistance or treatment as a victim of domestic violence;
- (3) a statement that disclosure of the applicant’s actual address would endanger the applicant’s safety or the safety of the applicant’s child;
- (4) a knowing and voluntary designation of the Secretary of State as agent for purposes of service of process and receipt of first–class, certified, or registered mail;

(5) the mailing address and telephone number where the applicant may be contacted by the Secretary of State;

(6) the actual address that the applicant requests not be disclosed by the Secretary of State because it would increase the risk of domestic violence;

(7) a statement as to whether there is any existing court order or pending court action involving the applicant and related to divorce proceedings, child support, child custody, or child visitation, and the court that issued the order or has jurisdiction over the action;

(8) a sworn statement by the applicant that to the best of the applicant's knowledge all of the information contained in the application is true;

(9) the signature of the applicant and the date on which the applicant signed the application; and

(10) a voluntary release and waiver of all future claims against the State for any claim that may arise from participation in the Program except for a claim based on gross negligence.

(c) (1) (i) On the filing of a properly completed application and release, the Secretary of State shall:

1. review the application and release; and

2. if the application and release are properly completed and accurate, designate the applicant as a Program participant.

(ii) An applicant shall be a participant for 4 years from the date of filing unless the participation is canceled or withdrawn prior to the end of the 4-year period.

(2) A Program participant may withdraw from participation by filing a signed, notarized request for withdrawal with the Secretary of State.

4-523.

(a) If an applicant falsely attests in an application that disclosure of the applicant's actual address would endanger the applicant's safety or the safety of the applicant's child or knowingly provides false information when applying for participation or renewal of participation in the Program, the applicant shall no longer be allowed to participate in the Program.

(b) A person may not knowingly make a false attestation or knowingly provide false information in an application in violation of subsection (a) of this section.

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$500 or both.

4–524.

(a) If a Program participant obtains a legal name change, the Program participant shall notify the Secretary of State within 30 days and provide the Secretary of State with a certified copy of any judgment or order evidencing the change or any other documentation the Secretary of State considers to be sufficient evidence of the change.

(b) If a Program participant makes a change in address or telephone number from an address or telephone number listed on the Program participant's application, the Program participant shall notify the Secretary of State at least 7 days before the change occurs.

4–525.

(a) The Secretary of State shall cancel the participation of a Program participant if:

(1) the Program participant fails to notify the Secretary of State of any legal name change or change in address or telephone number in the manner required by § 4–524 of this part;

(2) the Program participant files a request for withdrawal of participation under § 4–522(c)(2) of this part;

(3) the Program participant submits false information in applying for

participation in the Program in violation of § 4–523 of this part; or

(4) the Secretary of State forwards mail to the Program participant and the mail is returned as undeliverable.

(b) The Secretary of State shall send notice of any cancellation of participation in the Program to the participant and shall set forth the reason for cancellation.

(c) A Program participant may appeal any cancellation decision by filing an appeal with the Secretary of State within 30 days after the date of the notice of cancellation in accordance with procedures developed by the Secretary of State.

(d) **(1)** An individual who ceases to be a Program participant is responsible for notifying any person who uses the substitute address designated by the Secretary of State that the substitute address is no longer valid.

(2) IF AN INDIVIDUAL HAS REQUESTED THE SHIELDING OF PROPERTY RECORDS IN ACCORDANCE WITH PART II OF TITLE 3, SUBTITLE 1 OF THE REAL PROPERTY ARTICLE, THE SECRETARY OF STATE SHALL GIVE WRITTEN NOTICE TO THE CLERK OF THE APPROPRIATE CIRCUIT COURT WITHIN 30 DAYS AFTER THE INDIVIDUAL CEASES TO BE A PROGRAM PARTICIPANT.

4–526.

(a) **(1)** A Program participant may make a request to any **PERSON OR** State or local agency to use the substitute address designated by the Secretary of State as the Program participant's address.

[(b)] (2) Subject to subsection (c) of this section, when a Program participant has made a request to a **PERSON OR** State or local agency under [subsection (a) of this section] **THIS SUBSECTION**, the [State or local] **PERSON OR** agency shall use the substitute address designated by the Secretary of State as **[a] THE** Program participant's address.

(B) A PROGRAM PARTICIPANT WHO ACQUIRES AN OWNERSHIP INTEREST IN REAL PROPERTY WHILE PARTICIPATING IN THE PROGRAM MAY REQUEST THE SHIELDING OF REAL PROPERTY RECORDS CONCERNING THE PROPERTY IN ACCORDANCE WITH TITLE 3, SUBTITLE 1, PART II OF THE REAL PROPERTY ARTICLE.

(c) (1) A State or local agency that has a bona fide statutory or administrative requirement for using a Program participant's actual address may apply to the Secretary of State for a waiver from the requirements of the Program.

(2) If the Secretary of State approves the waiver, the State or local agency shall use the Program participant's actual address only for the required statutory or administrative purposes.

4-527.

(a) (1) Each local board of elections shall use a Program participant's actual address for all election-related purposes.

(2) A Program participant may not use the substitute address designated by the Secretary of State as the Program participant's address for voter registration purposes.

(b) A local board of elections may not make a Program participant's address contained in voter registration records available for public inspection or copying, except:

(1) on request by a law enforcement agency for law enforcement purposes;
and

(2) as directed by a court order to disclose the address.

4-528.

(a) Except as otherwise provided by this part, a Program participant's actual address and telephone number maintained by the Secretary of State or a State or local agency is not a public record within the meaning of § 4-101 of the General Provisions Article.

(b) The Secretary of State may not disclose a Program participant's actual address or telephone number or substitute address, except as provided in subsection (c) of this section and:

(1) (i) on request by a law enforcement agency for law enforcement

purposes; and

(ii) as directed by a court order; or

(2) on request by a State or local agency to verify a Program participant's participation in the Program or substitute address for use under § 4–526 of this part.

(c) The Secretary of State shall notify the appropriate court of a Program participant's participation in the Program and of the substitute address designated by the Secretary of State if the Program participant:

(1) is subject to a court order or administrative order;

(2) is involved in a court action or administrative action; or

(3) is a witness or a party in a civil or criminal proceeding.

4–529.

(a) A person may not knowingly and intentionally obtain a Program participant's actual address or telephone number from the Secretary of State, **THE CLERK OF A CIRCUIT COURT, [or] any agency, OR ANY PRIVATE ENTITY** without authorization to obtain the information.

(b) (1) This subsection applies only when [an employee of the Secretary of State] **A PERSON**:

(i) obtains a Program participant's actual address or telephone number during the course of the [employee's] **PERSON'S** official duties; and

(ii) at the time of disclosure, has specific knowledge that the actual address or telephone number belongs to a Program participant.

(2) [An employee of the Secretary of State or any agency] **A PERSON** may not knowingly and intentionally disclose a Program participant's actual address or telephone number to another person unless the disclosure is authorized by law.

(c) (1) **IF AN INDIVIDUAL WHO IS A PROGRAM PARTICIPANT NOTIFIES A**

PERSON IN WRITING ON A FORM PRESCRIBED BY THE SECRETARY THAT STATES THE REQUIREMENTS OF THE PROGRAM AND THAT THE INDIVIDUAL IS A PROGRAM PARTICIPANT, THE PERSON MAY NOT KNOWINGLY DISCLOSE THE PROGRAM PARTICIPANT'S NAME, HOME ADDRESS, WORK ADDRESS, OR SCHOOL ADDRESS UNLESS:

(I) THE PERSON TO WHOM THE ADDRESS IS DISCLOSED ALSO LIVES, WORKS, OR GOES TO SCHOOL AT THE DISCLOSED ADDRESS; OR

(II) THE PROGRAM PARTICIPANT HAS PROVIDED WRITTEN CONSENT TO THE DISCLOSURE OF THE PROGRAM PARTICIPANT'S NAME, HOME ADDRESS, WORK ADDRESS, OR SCHOOL ADDRESS FOR THE PURPOSE FOR WHICH THE DISCLOSURE WILL BE MADE.

(2) A PERSON THAT RECEIVES NOTICE AS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS PRESUMED TO HAVE SPECIFIC KNOWLEDGE THAT THE DISCLOSED HOME ADDRESS, WORK ADDRESS, OR SCHOOL ADDRESS BELONGS TO THE PROGRAM PARTICIPANT.

(D) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500.

4-530.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SERVICE OF PROCESS ON AN INDIVIDUAL BY A PERSON OR AGENCY THAT HAS RECEIVED NOTICE THAT THE INDIVIDUAL IS A PROGRAM PARTICIPANT SHALL BE MADE IN ACCORDANCE WITH THIS SECTION.

(B) SERVICE OF PROCESS SHALL BE MADE:

(1) IN PERSON ON THE PROGRAM PARTICIPANT; OR

(2) BY MAIL ON THE SECRETARY OF STATE.

(C) IF SERVICE BY PUBLICATION IS REQUIRED, SERVICE IS VALID IF:

(1) THE PUBLICATION OMITTS THE NAME OF THE PROGRAM

PARTICIPANT; AND

(2) THE SECRETARY OF STATE HAS BEEN SERVED IN ACCORDANCE WITH SUBSECTION (B)(2) OF THIS SECTION.

4-531.

The Secretary of State shall adopt regulations to carry out the provisions of this part.

Article – Real Property

3-112 AND 3-113 (RESERVED).

PART II. RECORDATION OF INSTRUMENTS FOR ADDRESS CONFIDENTIALITY PROGRAM PARTICIPANTS.

3-114.

(A) IN THIS PART II OF THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ADDRESS CONFIDENTIALITY PROGRAM” MEANS:

(1) THE ADDRESS CONFIDENTIALITY PROGRAM FOR VICTIMS OF DOMESTIC VIOLENCE ADMINISTERED BY THE SECRETARY OF STATE UNDER TITLE 4, SUBTITLE 5, PART IV OF THE FAMILY LAW ARTICLE; OR

(2) THE HUMAN TRAFFICKING ADDRESS CONFIDENTIALITY PROGRAM ADMINISTERED BY THE SECRETARY OF STATE UNDER TITLE 7, SUBTITLE 3 OF THE STATE GOVERNMENT ARTICLE.

(C) “ACP NUMBER” MEANS THE UNIQUE IDENTIFICATION NUMBER ASSIGNED TO EACH PROGRAM PARTICIPANT BY THE SECRETARY.

(D) “ACTUAL ADDRESS” MEANS A RESIDENTIAL STREET ADDRESS, SCHOOL ADDRESS, OR WORK ADDRESS OF AN INDIVIDUAL, AS SPECIFIED ON THE INDIVIDUAL’S APPLICATION TO BE A PROGRAM PARTICIPANT UNDER TITLE 4, SUBTITLE 5, PART IV OF THE FAMILY LAW ARTICLE OR TITLE 7, SUBTITLE 3 OF THE STATE GOVERNMENT ARTICLE.

(E) (1) “IDENTITY INFORMATION” MEANS INFORMATION THAT MAY BE USED TO IDENTIFY A PROGRAM PARTICIPANT.

(2) “IDENTITY INFORMATION” INCLUDES A PROGRAM PARTICIPANT’S:

- (I) NAME;**
- (II) PHONE NUMBER;**
- (III) E-MAIL ADDRESS;**
- (IV) SOCIAL SECURITY NUMBER; OR**
- (V) DRIVER’S LICENSE NUMBER.**

(F) “PROGRAM PARTICIPANT” MEANS AN INDIVIDUAL DESIGNATED BY THE SECRETARY OF STATE AS A PARTICIPANT OF AN ADDRESS CONFIDENTIALITY PROGRAM.

(G) “REAL PROPERTY ACP NOTICE” MEANS THE NOTICE REQUIRED UNDER THIS PART FOR A PROGRAM PARTICIPANT TO REQUEST THE SHIELDING OF REAL PROPERTY RECORDS.

(H) “REAL PROPERTY RECORD” MEANS ANY RECORD OR DATA MAINTAINED BY A CLERK OF THE CIRCUIT COURT OR A STATE OR LOCAL AGENCY AS PART OF THE LAND OR TAX RECORDS.

(I) “SECRETARY” MEANS THE SECRETARY OF STATE.

(J) “SHIELD” MEANS TO REMOVE REAL PROPERTY RECORDS FROM PUBLIC INSPECTION IN ACCORDANCE WITH THIS PART.

(K) “SHIELDING” MEANS, WITH RESPECT TO A REAL PROPERTY RECORD ACCEPTED FOR RECORDING BY A CLERK OF THE CIRCUIT COURT OR A STATE OR LOCAL AGENCY, REMOVING THE RECORD TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED

ACCESS.

3–115.

(A) A PROGRAM PARTICIPANT WHO ACQUIRES AN OWNERSHIP INTEREST IN REAL PROPERTY WHILE PARTICIPATING IN AN ADDRESS CONFIDENTIALITY PROGRAM MAY REQUEST THE SHIELDING OF REAL PROPERTY RECORDS CONCERNING THE PROPERTY IN ACCORDANCE WITH THIS SECTION.

(B) (1) TO REQUEST THE SHIELDING OF REAL PROPERTY RECORDS, A PROGRAM PARTICIPANT SHALL SUBMIT TO THE CLERK OF THE CIRCUIT COURT AND THE APPROPRIATE COUNTY FINANCE OFFICE:

(I) A REAL PROPERTY ACP NOTICE;

(II) THE DEED OR OTHER INSTRUMENT TO BE RECORDED; AND

(III) THE INTAKE SHEET REQUIRED UNDER § 3–104 OF THIS SUBTITLE.

(2) THE REAL PROPERTY ACP NOTICE SHALL BE ON THE FORM THAT THE SECRETARY OF THE STATE PROVIDES AND SHALL INCLUDE:

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

(II) THE PROGRAM PARTICIPANT’S ACP NUMBER;

(III) THE SUBSTITUTE ADDRESS DESIGNATED BY THE SECRETARY AS THE PROGRAM PARTICIPANT’S ADDRESS;

(IV) A DESCRIPTION OF THE PROPERTY IDENTICAL TO THE DESCRIPTION GIVEN ON THE INTAKE SHEET REQUIRED UNDER § 3–104 OF THIS SUBTITLE; AND

(V) THE SIGNATURE OF THE PROGRAM PARTICIPANT.

(3) THE PROGRAM PARTICIPANT SHALL SUBMIT TO THE SECRETARY

A COPY OF ANY REAL PROPERTY ACP NOTICE SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(C) A REAL PROPERTY ACP NOTICE APPLIES TO:

(1) THE INSTRUMENT SUBMITTED FOR RECORDATION AT THE SAME TIME AS THE REAL PROPERTY ACP NOTICE; AND

(2) ANY OTHER INSTRUMENT CONCERNING THE PROPERTY IDENTIFIED IN THE REAL PROPERTY ACP NOTICE THAT IS SUBSEQUENTLY PRESENTED FOR RECORDATION.

(D) A PROGRAM PARTICIPANT SHALL USE A SEPARATE REAL PROPERTY ACP NOTICE FOR EACH PROPERTY IN WHICH THE PROGRAM PARTICIPANT ACQUIRES AN OWNERSHIP INTEREST.

(E) THE CLERK OF THE CIRCUIT COURT SHALL PROVIDE A COPY OF ANY REAL PROPERTY ACP NOTICE RECEIVED UNDER THIS SECTION TO THE STATE DEPARTMENT OF ASSESSMENT AND TAXATION AND THE STATE ARCHIVES.

(F) A REAL PROPERTY ACP NOTICE IS NOT A PUBLIC RECORD WITHIN THE MEANING OF § 4-101 OF THE GENERAL PROVISIONS ARTICLE.

(G) IF A PROGRAM PARTICIPANT INTENDS TO REQUEST THE SHIELDING OF REAL PROPERTY RECORDS UNDER THIS SECTION, THE PROGRAM PARTICIPANT MAY NOT SUBMIT ANY INSTRUMENT FOR RECORDATION ELECTRONICALLY.

3-116.

(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, A CLERK OF THE CIRCUIT COURT AND ANY STATE OR LOCAL AGENCY THAT RECEIVES A REAL PROPERTY ACP NOTICE UNDER § 3-115 OF THIS SUBTITLE MAY NOT DISCLOSE THE PROGRAM PARTICIPANT'S IDENTITY INFORMATION IN CONJUNCTION WITH THE PROPERTY IDENTIFIED IN THE NOTICE.

(B) A PROGRAM PARTICIPANT'S IDENTITY INFORMATION MAY BE DISCLOSED IN CONJUNCTION WITH A PROPERTY IDENTIFIED IN A REAL PROPERTY ACP NOTICE IF:

(1) THE PROGRAM PARTICIPANT CONSENTS TO THE DISCLOSURE FOR A SPECIFIC PURPOSE IDENTIFIED IN A WRITING ACKNOWLEDGED BY THE PROGRAM PARTICIPANT;

(2) THE INFORMATION IS SUBJECT TO DISCLOSURE PURSUANT TO A COURT ORDER; OR

(3) THE SECRETARY AUTHORIZES THE DISCLOSURE IN ACCORDANCE WITH § 3–118 OF THIS SUBTITLE.

(C) THE PROHIBITION ON DISCLOSURE SHALL CONTINUE UNTIL:

(1) THE PROGRAM PARTICIPANT CONSENTS TO THE TERMINATION OF THE REAL PROPERTY ACP NOTICE IN A WRITING ACKNOWLEDGED BY THE PROGRAM PARTICIPANT;

(2) THE REAL PROPERTY ACP NOTICE IS TERMINATED PURSUANT TO A COURT ORDER;

(3) THE PROGRAM PARTICIPANT NO LONGER HOLDS A RECORD INTEREST IN THE PROPERTY IDENTIFIED IN THE REAL PROPERTY ACP NOTICE; OR

(4) THE SECRETARY GIVES WRITTEN NOTICE TO THE CLERK OF THE CIRCUIT COURT THAT THE INDIVIDUAL NAMED IN THE REAL PROPERTY ACP NOTICE IS NO LONGER A PROGRAM PARTICIPANT.

3–117.

(A) (1) THE CLERKS OF THE CIRCUIT COURTS SHALL ESTABLISH UNIFORM STATEWIDE PROCEDURES FOR RECORDING DEEDS AND OTHER INSTRUMENTS TO COMPLY WITH THIS PART.

(2) THE PROCEDURES SHALL, AT A MINIMUM, INCLUDE PROVISIONS FOR:

(I) SHIELDING RECORDED INSTRUMENTS THAT CONTAIN A PROGRAM PARTICIPANT’S ACTUAL ADDRESS OR IDENTITY INFORMATION; AND

(II) PROVIDING NOTICE TO THE PUBLIC OF THE EXISTENCE OF A SHIELDED INSTRUMENT AND INSTRUCTIONS FOR REQUESTING ACCESS TO THE SHIELDED INSTRUMENT IN ACCORDANCE WITH § 3-118 OF THIS SUBTITLE.

(3) NOTHING IN THIS SECTION MAY BE INTERPRETED TO PROHIBIT A CLERK OF THE CIRCUIT COURT FROM RETURNING AN ORIGINAL DEED OR OTHER INSTRUMENT TO THE INDIVIDUAL THAT SUBMITTED THE INSTRUMENT FOR RECORDATION.

(B) ALL STATE AND LOCAL AGENCIES, INCLUDING THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AND ALL COUNTY, BI-COUNTY, MUNICIPAL, AND SPECIAL TAXING DISTRICT FINANCE OFFICES, SHALL ESTABLISH UNIFORM PROCEDURES FOR MAINTAINING RECORDS, INCLUDING TAX, UTILITY, AND ZONING RECORDS, IN ACCORDANCE WITH THIS PART.

3-118.

(A) ON REQUEST, THE SECRETARY MAY AUTHORIZE THE DISCLOSURE OF REAL PROPERTY RECORDS THAT HAVE BEEN SHIELDED UNDER § 3-116 OF THIS SUBTITLE FOR THE PURPOSE OF PERFORMING A BONA FIDE TITLE EXAMINATION.

(B) A REQUEST UNDER THIS SECTION SHALL INCLUDE:

(1) THE NAME, TITLE, ADDRESS, AND AFFILIATED ORGANIZATION, IF APPLICABLE, OF THE INDIVIDUAL REQUESTING THE DISCLOSURE;

(2) THE INDIVIDUAL'S PURPOSE FOR REQUESTING THE DISCLOSURE;

(3) THE INDIVIDUAL'S RELATIONSHIP, IF ANY, TO THE PROGRAM PARTICIPANT;

(4) A LEGAL DESCRIPTION OF THE PROPERTY SUBJECT TO THE TITLE EXAMINATION;

(5) A STATEMENT THAT ANY INFORMATION DISCLOSED TO THE INDIVIDUAL SHALL BE TREATED AS CONFIDENTIAL AND SHALL ONLY BE USED FOR

THE PURPOSE IDENTIFIED IN THE REQUEST;

(6) THE INDIVIDUAL'S SIGNATURE; AND

(7) ANY OTHER INFORMATION REQUIRED BY THE SECRETARY TO RESPOND TO THE REQUEST.

(C) (1) WITHIN 2 BUSINESS DAYS AFTER RECEIVING A REQUEST UNDER THIS SECTION, THE SECRETARY SHALL PROVIDE A WRITTEN RESPONSE APPROVING OR DENYING THE REQUEST.

(2) THE SECRETARY SHALL APPROVE THE REQUEST ONLY IF THE SECRETARY CONFIRMS THAT THE PROPERTY SUBJECT TO THE TITLE EXAMINATION IS THE PROPERTY IDENTIFIED IN THE REAL PROPERTY ACP NOTICE OF A CURRENT PROGRAM PARTICIPANT.

(3) IF THE PROPERTY BELONGS TO AN INDIVIDUAL WHO IS NO LONGER A PROGRAM PARTICIPANT:

(I) THE SECRETARY SHALL GIVE WRITTEN NOTICE TO THE CLERK OF THE APPROPRIATE CIRCUIT COURT AND THE STATE ARCHIVES; AND

(II) THE CLERK AND THE STATE ARCHIVES SHALL CEASE SHIELDING ALL REAL PROPERTY RECORDS RELATING TO THE PROPERTY.

3-119.

(A) NOTHING IN THIS PART MAY BE INTERPRETED TO REQUIRE:

(1) THE SECRETARY TO IDENTIFY OTHER AGENCIES THAT MAY POSSESS INFORMATION ON A PROGRAM PARTICIPANT; OR

(2) THE CLERK OF A CIRCUIT COURT OR ANY STATE OR LOCAL AGENCY TO INDEPENDENTLY DETERMINE WHETHER IT MAINTAINS INFORMATION ON A PROGRAM PARTICIPANT.

(B) NOTHING IN THIS PART MAY BE INTERPRETED TO PROHIBIT THE CLERK

OF A CIRCUIT COURT OR ANY STATE OR LOCAL AGENCY FROM SHARING A PROGRAM PARTICIPANT'S INFORMATION WITH THE SECRETARY FOR THE PURPOSE OF FACILITATING COMPLIANCE WITH THIS PART.

3–120.

THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS PART.

Article – State Government

7–301.

(a) In this subtitle the following words have the meanings indicated.

(b) “Actual address” means a residential street address, school address, or work address of an individual as specified on the individual’s application to be a Program participant under this subtitle.

(c) “Disabled person” has the meaning stated in § 13–101 of the Estates and Trusts Article.

(d) “Program” means the Human Trafficking Address Confidentiality Program.

(e) “Program participant” means an individual designated as a Program participant under this subtitle.

(f) “Victim of human trafficking” means an individual who has been recruited, harbored, transported, provided, or obtained for labor, services, or a sexual act through the use of force, fraud, or coercion.

7–302.

The purpose of this subtitle is to enable:

(1) State and local agencies to respond to requests for public records without disclosing the location of a victim of human trafficking;

(2) interagency cooperation in providing address confidentiality for victims

of human trafficking; [and]

(3) State and local agencies **AND PRIVATE ENTITIES** to accept a Program participant's use of an address designated by the Office of the Secretary of State as a substitute address; **AND**

(4) A PROGRAM PARTICIPANT TO USE AN ADDRESS DESIGNATED BY THE OFFICE OF THE SECRETARY OF STATE AS A SUBSTITUTE ADDRESS FOR ALL PURPOSES.

7-303.

The Secretary of State shall establish and administer a Human Trafficking Address Confidentiality Program for victims of human trafficking.

7-304.

(a) The following individuals may apply to participate in the Program:

(1) an individual acting on the individual's own behalf;

(2) a parent or guardian acting on behalf of a minor who resides with the parent or guardian; or

(3) a guardian acting on behalf of a disabled person.

(b) An application to participate in the Program shall be in the form required by the Secretary of State and shall contain:

(1) a statement that:

(i) the applicant is a victim of human trafficking; and

(ii) the applicant fears for the applicant's safety or the safety of the applicant's child;

(2) evidence that the applicant is a victim of human trafficking, including:

(i) certified law enforcement, court, or other federal or State agency records or files;

(ii) documentation from a human trafficking prevention or assistance program; or

(iii) documentation from a religious, medical, or other professional from whom the applicant has sought assistance or treatment as a victim of human trafficking;

(3) a statement that disclosure of the applicant's actual address would endanger the applicant's safety or the safety of the applicant's child;

(4) a knowing and voluntary designation of the Secretary of State as agent for purposes of service of process and receipt of first-class, certified, or registered mail;

(5) the mailing address and telephone number at which the applicant may be contacted by the Secretary of State;

(6) the actual address that the applicant requests not be disclosed by the Secretary of State because it would increase the risk of human trafficking or other crimes;

(7) a sworn statement by the applicant that, to the best of the applicant's knowledge, all the information contained in the application is true;

(8) the signature of the applicant and the date on which the applicant signed the application; and

(9) a voluntary release and waiver of all future claims against the State that may arise from participation in the Program except for a claim based on gross negligence.

(c) (1) (i) On the filing of a properly completed application and release, the Secretary of State shall:

1. review the application and release; and

2. if the application and release are properly completed and

accurate, designate the applicant as a Program participant.

(ii) An applicant shall be a participant for 4 years from the date of filing unless the participation is canceled or withdrawn prior to the end of the 4-year period.

(2) A Program participant may withdraw from participation by filing a signed, notarized request for withdrawal with the Secretary of State.

7-305.

(a) If an applicant falsely attests in an application that disclosure of the applicant's actual address would endanger the applicant's safety or the safety of the applicant's child or knowingly provides false information when applying for participation or renewal of participation in the Program, the applicant shall no longer be allowed to participate in the Program.

(b) A person may not knowingly make a false attestation or knowingly provide false information in an application in violation of subsection (a) of this section.

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$500 or both.

7-306.

(a) If a Program participant obtains a legal name change, the Program participant shall notify the Secretary of State within 30 days and provide the Secretary of State with a certified copy of any judgment or order evidencing the change or any other documentation the Secretary of State considers to be sufficient evidence of the change.

(b) If a Program participant makes a change in address or telephone number from an address or a telephone number listed on the Program participant's application, the Program participant shall notify the Secretary of State at least 7 days before the change occurs.

7-307.

(a) The Secretary of State shall cancel the participation of a Program participant if:

(1) the Program participant fails to notify the Secretary of State of any legal name change or change in address or telephone number in the manner required by § 7–306 of this subtitle;

(2) the Program participant files a request for withdrawal of participation under § 7–304(c)(2) of this subtitle;

(3) the Program participant submits false information in applying for participation in the Program in violation of § 7–305 of this subtitle; or

(4) the Secretary of State forwards mail to the Program participant and the mail is returned as undeliverable.

(b) The Secretary of State shall send notice of any cancellation of participation in the Program to the participant and shall set forth the reason for cancellation.

(c) A Program participant may appeal any cancellation decision by filing an appeal with the Secretary of State within 30 days after the date of the notice of cancellation in accordance with procedures developed by the Secretary of State.

(d) **(1)** An individual who ceases to be a Program participant is responsible for notifying any person who uses the substitute address designated by the Secretary of State that the substitute address is no longer valid.

(2) IF AN INDIVIDUAL HAS REQUESTED THE SHIELDING OF PROPERTY RECORDS IN ACCORDANCE WITH TITLE 3, SUBTITLE 1, PART II OF THE REAL PROPERTY ARTICLE, THE SECRETARY OF STATE SHALL GIVE WRITTEN NOTICE TO THE CLERK OF THE CIRCUIT COURT WITHIN 30 DAYS AFTER THE INDIVIDUAL CEASES TO BE A PROGRAM PARTICIPANT.

7–308.

(a) **(1)** A Program participant may make a request to any **PERSON OR** State or local agency to use a substitute address designated by the Secretary of State as the Program participant's address.

[(b)] (2) Subject to subsection (c) of this section, when a Program participant has made a request to a **PERSON OR** State or local agency under **[subsection (a) of this section]** **THIS SUBSECTION**, the **[State or local]** **PERSON OR** agency shall use the substitute address designated by the Secretary of State as **[a]** **THE** Program participant's address.

(B) A PROGRAM PARTICIPANT WHO ACQUIRES AN OWNERSHIP INTEREST IN REAL PROPERTY WHILE PARTICIPATING IN THE PROGRAM MAY REQUEST THE SHIELDING OF REAL PROPERTY RECORDS CONCERNING THE PROPERTY IN ACCORDANCE WITH TITLE 3, SUBTITLE 1, PART II OF THE REAL PROPERTY ARTICLE.

(c) (1) A State or local agency that has a bona fide statutory or administrative requirement for using a Program participant's actual address may apply to the Secretary of State for a waiver from the requirements of the Program.

(2) If the Secretary of State approves the waiver, the State or local agency shall use the Program participant's actual address only for the required statutory or administrative purposes.

7–309.

(a) (1) Each local board of elections shall use a Program participant's actual address for all election–related purposes.

(2) A Program participant may not use the substitute address designated by the Secretary of State as the Program participant's address for voter registration purposes.

(b) A local board of elections may not make a Program participant's address contained in voter registration records available for public inspection or copying except:

(1) on request by a law enforcement agency for law enforcement purposes;
and

(2) as directed by a court order to disclose the address.

7–310.

(a) Except as otherwise provided by this subtitle, a record of a Program participant's actual address and telephone number maintained by the Secretary of State or a State or local agency is not a public record within the meaning of § 4–101 of the General Provisions Article.

(b) The Secretary of State may not disclose a Program participant's actual address or telephone number or substitute address except as provided in subsection (c) of this section and:

(1) (i) on request by a law enforcement agency for law enforcement purposes; and

(ii) as directed by a court order; or

(2) on request by a State or local agency to verify a Program participant's participation in the Program or substitute address for use under § 7–308 of this subtitle.

(c) The Secretary of State shall notify the appropriate court of a Program participant's participation in the Program and of the substitute address designated by the Secretary of State if the Program participant:

(1) is subject to a court order or an administrative order;

(2) is involved in a court action or an administrative action; or

(3) is a witness or a party in a civil or criminal proceeding.

7–311.

(a) A person may not knowingly and intentionally obtain a Program participant's actual address or telephone number from the Secretary of State, **THE CLERK OF A CIRCUIT COURT**, [or] any agency, **OR ANY PRIVATE ENTITY** without authorization to obtain the information.

(b) (1) This subsection applies only when [an employee of the Secretary of State] **A PERSON**:

(i) obtains a Program participant's actual address or telephone number during the course of the [employee's] **PERSON'S** official duties; and

(ii) at the time of disclosure, has specific knowledge that the actual address or telephone number belongs to a Program participant.

(2) [An employee of the Secretary of State or any State or local agency] **A PERSON** may not knowingly and intentionally disclose a Program participant's actual address or telephone number to another person unless the disclosure is authorized by law.

(c) **(1) IF AN INDIVIDUAL WHO IS A PROGRAM PARTICIPANT NOTIFIES A PERSON IN WRITING ON A FORM PRESCRIBED BY THE SECRETARY THAT STATES THE REQUIREMENTS OF THE PROGRAM AND THAT THE INDIVIDUAL IS A PROGRAM PARTICIPANT, THE PERSON MAY NOT KNOWINGLY DISCLOSE THE PROGRAM PARTICIPANT'S NAME, HOME ADDRESS, WORK ADDRESS, OR SCHOOL ADDRESS UNLESS:**

(I) THE PERSON TO WHOM THE ADDRESS IS DISCLOSED ALSO LIVES, WORKS, OR GOES TO SCHOOL AT THE DISCLOSED ADDRESS; OR

(II) THE PROGRAM PARTICIPANT HAS PROVIDED WRITTEN CONSENT TO THE DISCLOSURE OF THE PROGRAM PARTICIPANT'S NAME, HOME ADDRESS, WORK ADDRESS, OR SCHOOL ADDRESS FOR THE PURPOSE FOR WHICH THE DISCLOSURE WILL BE MADE.

(2) A PERSON THAT RECEIVES NOTICE AS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS PRESUMED TO HAVE SPECIFIC KNOWLEDGE THAT THE DISCLOSED HOME ADDRESS, WORK ADDRESS, OR SCHOOL ADDRESS BELONGS TO THE PROGRAM PARTICIPANT.

(D) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500.

7-312.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SERVICE OF PROCESS ON AN INDIVIDUAL BY A PERSON OR AGENCY THAT HAS RECEIVED NOTICE THAT THE INDIVIDUAL IS A PROGRAM PARTICIPANT SHALL BE MADE IN

ACCORDANCE WITH THIS SECTION.**(B) SERVICE OF PROCESS SHALL BE MADE:**

(1) IN PERSON ON THE PROGRAM PARTICIPANT; OR

(2) BY MAIL ON THE SECRETARY OF STATE.

(C) IF SERVICE BY PUBLICATION IS REQUIRED, SERVICE IS VALID IF:

(1) THE PUBLICATION OMITTS THE NAME OF THE PROGRAM PARTICIPANT; AND

(2) THE SECRETARY OF STATE HAS BEEN SERVED IN ACCORDANCE WITH SUBSECTION (B)(2) OF THIS SECTION.

7-313.

The Secretary of State shall adopt regulations to carry out the provisions of this subtitle.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

**Appendix B. FIN-2009-R003 Customer Identification Program Rule -
– Address Confidentiality Programs**



Department of the Treasury Financial Crimes Enforcement Network

Ruling

FIN-2009-R003

Issued: November 3, 2009

Subject: Customer Identification Program Rule – Address Confidentiality Programs

I am responding to your letter dated January 16, 2009, to the Financial Crimes Enforcement Network (FinCEN), in which you seek guidance on customer identification (CIP) requirements as they relate to customers who are issued a post office box address as part of their participation in the [name of state] program, an address confidentiality program (ACP).¹

In the situation you have described, [name of state ACP] participants who use [your institution] are having difficulty establishing accounts or changing their address to the post office box that has been assigned to them by [name of state ACP]. [Name of state ACP] is administered by the secretary of state, which maintains a post office box through which program participants receive mail.² Under [name of state] law “when a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant” and a program participant may use the designated address as their business address.³

The rules implementing the Bank Secrecy Act require a [financial institution] to implement a CIP that includes, at a minimum, risk-based policies and procedures that enable the [financial institution] to form a reasonable belief that it knows the true identity of its customers.⁴ The rules also require that a [financial institution] obtain from an individual customer a residential or business street address.⁵ If the individual customer does not have a residential or

¹ ACPs are offered by 31 States; these programs provide a substitute address for victims of domestic violence, sexual assault and stalking and help a participant keep his/her physical address confidential. Substitute addresses are accepted by state and local agencies. See, e.g., Washington Secretary of State Additional Information About ACP <http://www.secstate.wa.gov/acp/aboutus.aspx> (last visited Oct. 13, 2009).

² See, e.g., Oklahoma Secretary of the State Address Confidentiality Program http://www.sos.state.ok.us/acp/acp_welcome.htm (last visited Oct. 13, 2009). For example, in the State of Oklahoma (“State”), the State issues the same post office box number to all participants in its ACP. Under the ACP, mail received at the substitute address is forwarded by first-class mail to the customer’s actual address by the State and the secretary of state serves as the customer’s agent for service of process and for receipt of mail.

³ See, e.g., Minn. Stat. §5B.05 (a) and (b) (2008).

⁴ See 31 C.F.R. §§ 103.121 – 103.123 and 103.131.

⁵ See 31 C.F.R. § 103.121(b)(2)(i)(3)(i), §103.122(b)(2)(i)(A)(3)(i), §103.123(b)(2)(i)(A)(3)(i) and §103.131(b)(2)(i)(A)(3)(i). See also Customer Identification Programs, 68 Fed. Reg. 25090 (May 9, 2003) (Treasury determined that law enforcement should be able to contact an individual customer at a physical location, rather than solely through the mail).

business street address, then the rules permit the individual customer to provide a “residential or business street address of next of kin or of *another contact individual*.”⁶

A [financial institution] would not be in compliance with the rules if it accepts the [name of state ACP] post office box address to fulfill CIP requirements. However, FinCEN understands the need to protect victim anonymity. Under the terms of 31 U.S.C. § 5318(a)(5) and 31 CFR § 103.55, FinCEN has the authority to provide exceptive relief from the requirements of 31 CFR part 103. Such exceptions may be conditional or unconditional and may apply to particular persons or classes of persons, but only to the extent that it is expressly stated in the order of authorization.⁷ Moreover, exceptions may be revoked at FinCEN’s discretion.⁸

Accordingly, in an effort to support [name of state ACP] requirements, as well as similar requirements that may arise in other states that have established an ACP, under 31 U.S.C. § 5318(a)(5) and 31 C.F.R. § 103.55(a), FinCEN authorizes the following exception to the requirement that a [financial institution] obtain a customer’s residential or business street address: a customer who participates in a state-created ACP shall be treated as not having a residential or business street address and a secretary of state, or other state entity serving as a designated agent of the customer consistent with the terms of the ACP, will act as *another contact individual* for the purpose of complying with FinCEN’s rules. Therefore, a [financial institution] should collect the street address of the ACP sponsoring agency for purposes of meeting its CIP address requirement.

We have relied upon the accuracy and completeness of the representations made in your letter. Nothing precludes FinCEN from taking other action should circumstances change, or if any of the information you have provided proves inaccurate or incomplete. We reserve the right, after redacting your name and address to publish this letter as guidance in accordance with our regulations. Please inform us within fourteen (14) days from the date of this letter of any other information that you believe should be redacted from this letter and the legal basis for redaction.

If you have questions regarding this letter, please contact [FinCEN’s regulatory helpline at (800) 949-2732.]

Sincerely,

//signed//

Jamal El-Hindi
Associate Director
Regulatory Policy and Programs Division

⁶ See 31 C.F.R. §103.121(b)(2)(i)(3)(ii), §103.122(b)(2)(i)(A)(3)(ii), §103.123(b)(2)(i)(A)(3)(ii) and §103.131(b)(2)(i)(A)(3)(ii) (Emphasis added).

⁷ 31 CFR § 103.55(a).

⁸ *Id.*

Appendix C. Task Force Meeting Minutes



Task Force to Study the Recording of Deeds for Victims of Domestic Violence

Meeting Date: Tuesday, November 1, 2016

Meeting Time: 10 a.m. to 11:30 a.m.

Location: Fred L. Wineland Building, 16 Francis Street, Annapolis, Maryland

Attendees

John Wobensmith, Secretary of State, Task Force Chair

Senator Susan Lee, Sponsor of SB 1047

Anne Hoyer, Director of Address Confidentiality Program

Josaphine Yuzuik, Assistant Attorney General

Kevin Swanson, Maryland State Archives

Tim Baker, Maryland State Archives

Sean Powell, Director of the State Department of Assessments and Taxation

Della Stull, Legislative Liason with State Department of Assessments and Taxation

Brett Dieck, the Law Office of Brett M. Dieck, LLC and Old Line Title Company, Inc.

James Cosgrove, Maryland Land Title Association

Kathleen Blough, Circuit Court Clerks, Supervisor of Land Records Department

Dorothy Lennig, Attorney at House of Ruth Domestic Violence Legal Clinic

Frederick Smalls, Maryland Municipal League

Matthew Fox, Bankers Association

April Morton, Legislative Services

Michael Lore, Chief of Staff for Senator Lee

Brittany Luzader, Address Confidentiality Program

Opening Remarks

The Secretary opened the meeting by expressing gratitude for those present and outlining the meeting's agenda.

Introductions

Each person in attendance had the opportunity to introduce themselves to the group.

State Ethics Commission

The Secretary passed out a letter from the Executive Director of the State Ethics Commission, Michael Lord, approving financial disclosure exemption request for the Task Force.

Overview of Maryland's Safe at Home Address Confidentiality Program (ACP)

Ms. Hoyer provided a brief explanation of how Maryland's Safe at Home program works to shield the location of currently 1400 victims of domestic violence (a broad definition to include victims of stalking and, as of 2014, human trafficking victims) from their abusers by providing a substitute address to be used when interacting with State and local government entities. Ms. Hoyer addressed how participants are referred, usually by domestic violence outreach centers and shelters, such as Heartly House or the House of Ruth, but also through various States' Attorneys' offices, the courts, or the MVA. Ms. Hoyer explained the program's application process for potential participants, which includes a basic background check, when necessary, as well as the legal and investigative assistance of Ms. Yuzuik, if needed, to ensure that careful attention is paid to protect the integrity of the program. The Secretary mentioned the federal grant awarded to the ACP which will greatly expand the program, particularly to underserved counties, most likely increasing the need for this issue of deed recording to be resolved.

Legislation Creating the Task Force

Senator Lee explained the reason to bring together these experts for the study of deed recording to protect victims of domestic violence who go to great lengths to flee their abusers only for their location to be made public when they purchase a home, perpetuating the cycle of violence.

Minnesota Law Protecting Participant in Minnesota's ACP

Ms. Yuzuik presented information on the law passed in Minnesota in 2013 that requires all government agencies to keep the location data, including home, work and school addresses, confidential for participants in their ACP when presented with a notice and certification of participation. In 2014, the exemption was passed for the sake of county recorders, that a "Real Property Notice" must be used by participants. This allows for the combination of program participant identity and location in real property records to remain private, but permits the separate release of identity and location information. For a Grantor-Grantee Index, the county recorders list the name of the participant, but no legal description of the property. For a Tract Index, the participant's name must not be listed with the location information. Third parties, such as Lenders and title insurance companies, must go through Minnesota's Secretary of State's office. Ms. Yuzuik provided samples of Minnesota ACP's Real Property Notice, Notice Distribution checklist and Notice to Private Entities as well as a handout with condensed information and references and links for additional information.

Roundtable Discussion of Potential Barriers

Mr. Cosgrove began by seeking clarification, which was affirmed, that this law was only for prospective property transactions. Mr. Swanson asked about the time limit of participation. Ms. Hoyer explained that ACP participation is for four years, but most applicants reapply several times to extend their participation. In Minnesota, notice is sent to agencies every four years as needed until a participant withdraws from the program, in which case the agencies are also notified by Minnesota's ACP. Ms. Blough asked whether or not these recordings were electronic, as that distinction would be important to know. Mr. Cosgrove and Mr. Baker compared deed recording to the issue a few years ago with social security numbers. Mr. Baker stated that the issue is complex and must be taken care of at the time of recording. Mr. Swanson added that previous transfers cannot be redacted.

Likelihood of Abuser Using Deed Recording to Find Victims

Mr. Fox refocused the discussion on real life situations, such as the abuser pulling the victim's tax record to find his or her location, and the question was raised regarding the abuser's knowledge of deed recording, and what lengths he or she would go to, or know how to go to, in order to discover the location of his or her victim. Ms. Hoyer stated that many of these abusers are highly intelligent and stop at nothing to hunt down their victims. She assured that we do not expect there to be hundreds of ACP participants seeking to purchase a home, threatening to slow down the recording process. A more likely number is 10 or fewer each year. Ms. Lennig confirmed that, in her experience, few victims seek to purchase homes, but this ought to increase with greater outreach. Mr. Swanson sought clarification regarding the commitment of victims to protecting their own identities, as contact information is requested constantly and there would be innumerable situations in which a victim would be required to provide an address. Ms. Hoyer explained the substitute address that is provided by the ACP for the victim to use in all these circumstances, including courts and law enforcement, and how all mail does in fact come first to the SOS office to be sorted then sent to the indicated address. Ms. Lennig reminded that these victims are highly motivated to protect their location information, no matter how inconvenient.

Shielding Names and Property Information and Exploration of Other Options

Mr. Baker questioned the possibility of merely shielding the name, using an alias, as this would be simpler than masking property information. Mr. Fox explained that this would not be possible when working with the mortgage industry. Mr. Powell suggested a situation similar to family farms. Mr. Cosgrove suggested Safe at Home set up a massive trust. Mr. Dieck suggested an LLC while acknowledging that this may trigger problems with commercial lending. He suggested the SOS could be the title holder. Mr. Lore questioned if the participants could get a loan in the secondary market under any of these scenarios. Mr. Dieck reminded of federal banking law requirements. Mr. Baker asked if financial institutions would have an issue if all information was shielded, for example, a search for a deed of trust would result in an image stating the information shielded according to the law. Mr. Cosgrove feared that that would slow things down tremendously. Ms. Lennig reminded of the small number of cases and asked about preferred vendors (something used by the ACP already regarding voting and the MVA) at the office of the clerk of courts. Mr. Dieck expanded upon this to suggest preferred vendors for titles and lenders; this idea was discussed as well as using an id number instead of a name or redacting the name and using "occupant." Mr. Fox raised concerns that an id number may be a

problem in the secondary market. Mr. Lore raised an issue of private companies accessing the public records making their own database publicly available. The discussion circled back around to the importance of the information being shielded at the time of the recording. Ms. Hoyer posed the question of whether or not introducing legislation requiring private entities such as banks to accept a confidential address would be effective.

Wrap Up/Concerns Identified

Ms. Yuzuik summarized the roundtable discussion into four main subgroups requiring further review: (1) Title Search- how to address delays; (2) Financing- preferred vendors; (3) Current ACP law- changes needed to include private companies; and (4) Review of other public records created at the time of purchasing and selling a home (State and local tax records, public utilities, and others).

Closing Remarks

The Secretary stated that subgroups would be assigned, and that as we are meeting quarterly, we will not be gathering together again until the first of the year, but that information will be provided to the members of the task force via Ms. Hoyer. The possibility of attending meetings by conference call or holding the meetings in Crownsville will be considered.



Office of the Secretary of State

Task Force to Study the Recording of Deeds for Victims of Domestic Violence
Tuesday, February 7, 2017
11 a.m. to 12:30 a.m.
Fred L. Wineland Building, 16 Francis Street, Annapolis, Maryland 21401

Attendees

John Wobensmith, Secretary of State, Task Force Chair

Senator Susan Lee, Sponsor of SB 1047

Anne Hoyer, Director of the Address Confidentiality Program

Josaphine Yuzuik, Assistant Attorney General

Kevin Swanson, Maryland State Archives

Tim Baker, Maryland State Archives

Michael Higgs, Acting Director of the State Department of Assessments and Taxation

Brett Dieck, the Law Office of Brett M. Dieck, LLC and Old Line Title Company, Inc.

James Cosgrove, Maryland Land Title Association

Kathleen Blough, Circuit Court Clerks, Supervisor of Land Records Department

Dorothy Lennig, Attorney at House of Ruth Domestic Violence Legal Clinic

Frederick Smalls, Maryland Municipal League

Matthew Fox, Bankers Association

Michael Lore, Chief of Staff for Senator Lee

Bryan Robb, Corridor Mortgage Group

Brittany Luzader, Address Confidentiality Program

Sarah Smalt, Address Confidentiality Program

Jessica Binenstock, Address Confidentiality Program

Possibility of an LLC

While waiting for the rest of the task force to arrive, Mr. Higgs mentioned the problem with an LLC (this having been discussed during the last meeting) being that the buyer would lose the Homestead Credit. Ms. Blough agreed adding that for this reason a trust is better, because the beneficiary can receive the credit. Ms. Yuzuik shared her view that the Secretary of State as the trustee is not a viable option. When Ms. Blough suggested the Address Confidentiality Program (ACP) hire a trustee, Ms. Yuzuik explained that with the cost, responsibility, oversight, etc that would really be going beyond the scope of the Secretary of State's role as administrator of the ACP.

Opening Remarks

The Secretary opened the meeting by asking if everyone had received copies of the minutes from the November 1, 2016 meeting. Next, he expressed gratitude for those present and reviewed that at the last meeting, we had divided everyone into four subgroups to further study specific issues related to deed recording. He asked Mr. Dieck, chair of the first subgroup, to begin by sharing what his subgroup discovered.

Revocable Trust Option

Mr. Dieck introduced the members of his subgroup (Mr. Cosgrove, Mr. Baker and Ms. Blough) and explained that drawing on their individual expertise and different experiences, they determined that masking data is an all or nothing proposition meaning that they can either change the whole system of deed recording or adapt the Address Confidentiality Program to the existing deed recording system with no changes. He further explained that they came to this conclusion because if any data is inaccurate in the deed index, there is a concern that the entire index breaks down. Ms. Blough looked into Minnesota's solution, but upon learning that not every county records online in Minnesota, she considered their system to be distinct from Maryland's. Mr. Baker clarified that in Maryland, the historic records are still on paper. If the public image is masked, there is still a digital image copy of the original. When a participant in the ACP graduates from the program, the unmasked information should be put back into the public domain. Mr. Baker stated that the biggest issue is mortgage financing, as hardly anyone pays cash for a house anymore. Mr. Dieck said that in order to maintain the integrity of public recording, their subgroup proposes a revocable trust option (hoping the Secretary of State could be the trustee of a master trust) with the Department of Housing and Community Development as the lender. He explained that trust documents are kept private, and the beneficiary is not stated on the document that is actually recorded in the land records. Ms. Yuzuik asked if the beneficiaries of the revocable trust are actually homeowners. Mr. Dieck explained that they would be considered equitable title owners with the trustee as the legal title owner. They own the property as a trust in name only. ACP participants who purchase a home through the trust option do so as a "trust in name only" and would have all other rights as homeowners, but not the legal title owner, which would be the trustee. Ms. Yuzuik questioned if DHCD could be the lender, but would like them to be contacted to provide their input on this idea. Mr. Lore asked about the way one might discover who is the beneficiary of a revocable trust. Mr. Dieck answered the name of the beneficiary of the trustee (the equitable owner) would only be on the document which would be housed at the Secretary of State or wherever decided to the trustee.

Shielding Information versus Revocable Trust

Mr. Fox agreed that a trust is always a possibility as long as it is not a master trust. From the mortgage company perspective, there is not much conflict with the way Minnesota's system for deed recording is set up. He reminded that customers already have the right to request that their information not be shared publicly. With the Mortgage Electronic Registration System, which makes it easy for someone to search a name and be provided with the mortgage company information, the address is not shown. He believes the biggest concern to be someone searching for a participant's location via his or her credit report. He suggests making sure that everyone in the ACP freezes his or her credit. He continued to say that while preferred vendors are not a necessity, a preferred title company almost is. He informed that FMA and VA loans allow for individual trust. Mr. Cosgrove clarified that it could not be a master trust. Mr. Dieck answered that it could be a master trust document, but with the names changed. Mr. Baker voiced that if the documents are to be housed at archives, they will need an exception from the Public Information Act. Ms. Yuzuik clarified that State agencies already have an obligation to keep ACP participants name and address confidential. Mr. Dieck said that the deed and mortgage would not go to archives, just the trust. Mr. Swanson added that the deed is recorded with the trust as the owner. Ms. Yuzuik shared a concern that setting up a trust as a solution is too burdensome for the participants. She stated that Minnesota, which also records everything electronically, has a process which is much less burdensome. Ms. Hoyer elaborated that it had been explained to her that in Minnesota, the recording office houses the information, but it is not shared publicly. If a participant defaults on a loan, the recording office must be subpoenaed for the name of the ACP participant. Mr. Fox said the trust will only come into play if we cannot find another way to shield information from recording. Mr. Cosgrove asked what must be done to the mortgage if the deed is signed over from a trust to an individual. Mr. Fox answered that the individual has the responsibility to report to the lender, though this rarely happens in practice. Ms. Yuzuik reminded that once the ACP law is expanded to include private entities, everyone (lenders, title companies, etc) receives the information they need, but are prohibited from making it public information. Ms. Blough wondered if it is too cumbersome for someone doing a title search to come across a property record that has been redacted. Ms. Lennig questioned for whom it is burdensome. Mr. Dieck answered that it is only burdensome for a participant when he or she leaves the ACP. For this reason, it is best to adapt the ACP by adding a homeownership program with a named trustee instead of requiring changes to the recording system already in place. Ms. Yuzuik stated that adding another purpose to the ACP, like assisting victims with home ownership, is a really big undertaking. Ms. Hoyer responded that the ACP is willing to do whatever they can to help victims in any capacity. Ms. Yuzuik clarified that the ACP is the same in Minnesota as it is in Maryland with the exception of their law applying to "any person" and Maryland's still being limited in scope to "State and local agencies." At the moment, their purpose is identical. Is the recommendation from the subgroup to add a home ownership program to the ACP purpose? Ms. Lennig asked Ms. Yuzuik to describe what is done in Minnesota. Ms. Yuzuik explained that they have a grantor/grantee index where the name is listed but the address is not as well as a track index where the name is withheld. Ms. Blough added that in Maryland, we only have the grantor/grantee index system and that in Minnesota they use a restricted document form. Mr. Baker asked if one is scrolling through the grantor/grantee index will one come across a page that is restricted? Mr. Higgs informed that on the State

Department of Assessment and Taxation's website, a person may only search by address in the real property records. One must come into the SDAT office to search by name. A different address cannot be listed; it must be the actual address. Mr. Cosgrove reviewed the three steps of the recording process: Finance Office; Tax Assessment; and Recording at the Clerk's Office. Mr. Higgs added that all real property is assessed and that recording as they do in Minnesota (including a redacted document in the land records) would create a fairly large technical hurdle. Mr. Fox explained that the FHA allows a trust and requires the owner or occupant to be on the note, not on the deed. Mr. Cosgrove reminded that the note is not recorded, only the deed.

Other Records Created with the Purchase of a Home

Mr. Swanson presented the results from the conversation with his subgroup which was to explore all records created when a home is purchased. He said the list of non-land records is not long and most have already been discussed: utilities, voter registration, etc. Ms. Hoyer explained that the ACP deals with voter registration all the time. Mr. Baker brought up the MVA and Ms. Hoyer responded that all ACP participants must go through the Ombudsman to put 16 Francis Street (the address of the office of the Secretary of State) on his or her license. Mr. Baker asked us to look at the number of people we could expect. Ms. Lennig promised that it is not very many; only 50 people in Minnesota's ACP purchased a home over several years. She mentioned that Minnesota's population is a bit smaller than Maryland's. The Secretary asked how many participants are in Minnesota's ACP. [After the meeting, we learned the answer is over 2,350 participants compared to Maryland's 1,130.] Ms. Hoyer reminded that the director of Minnesota's ACP agrees with her that our first priority ought to be passing legislation that requires private entities to accept the ACP address. Ms. Yuzuik agreed that we cannot require land, title, mortgage companies or anyone to keep anything confidential unless it is the law. So, she asked, do we create an ACP home ownership program? Mr. Cosgrove asked how participants in Minnesota's ACP interact with the deed recording office- is there a code word or something? Ms. Yuzuik replied that there is a notice.

Next Steps

Ms. Hoyer, noting the time, asked for opinions regarding the next meeting's agenda. How do we move forward from here? Were the subgroups helpful? The group generally agreed that they were. Ms. Lennig suggested that each subgroup make a list of the advantages and disadvantages of each proposed option. Ms. Yuzuik narrowed down the options to 1) shielding participant's information as they do in Minnesota and 2) the trust option. Mr. Cosgrove wondered if an LLC would be an acceptable option to shield the name from public view. Mr. Fox responded that an LLC would make it almost impossible for the ACP participants to obtain financing. Mr. Lore clarified that a master trust is a no-go with the FHA and that a revocable trust would be relatively simpler. He also recommends creating a list of preferred vendors.

Ms. Lennig requested a brief summary. Mr. Dieck offered that they are proposing to fit within the confines of the current land records system by creating a revocable trust option in the Address Confidentiality Program. The trustee would be an institution we create. It could be anyone who takes the legal title to the property.

The equitable title is a separate document. He added that the issue would be that the trustee would have to sign the deed and be at the settlement, even if the participant is no longer in the ACP. Ms. Yuzuik reminded that Minnesota's option adjusts the way records are recorded, providing for the shielding of co-location. Mr. Fox asked why we cannot comply with Minnesota's system. Ms. Lennig suggested that the next discussion focus on the difficulties in adjusting to Minnesota's system vs. creating a trust. The group agreed that this next step made sense. Mr. Swanson's group will merge with Mr. Dieck's group as there did not appear to be a need to identify any other entities.

Closing Remarks

Secretary Wobensmith requested that each subgroup provide a summary of the pros and cons of Minnesota's system versus a trust. He thanked everyone for their presence and participation. The meeting adjourned at approximately 12:30 pm.



Office of the Secretary of State

Task Force to Study the Recording of Deeds for Victims of Domestic Violence
Wednesday, April 19, 2017
10 a.m. to 11:30 a.m.
Fred L. Wineland Building, 16 Francis Street, Annapolis, Maryland 21401

Members in Attendance

John Wobensmith, Secretary of State, Task Force Chair

Senator Susan Lee, Sponsor of SB 1047

Anne Hoyer, Director of the Address Confidentiality Program

Josaphine Yuzuik, Assistant Attorney General

Kevin Swanson, Maryland State Archives

Tim Baker, Maryland State Archives

Michael Higgs, Acting Director of the State Department of Assessments and Taxation

Brett Dieck, the Law Office of Brett M. Dieck, LLC and Old Line Title Company, Inc.

Kathleen Blough, Circuit Court Clerks, Supervisor of Land Records Department

Dorothy Lennig, Attorney at House of Ruth Domestic Violence Legal Clinic

Frederick Smalls, Maryland Municipal League

Matthew Fox, Bankers Association

Michael Lore, Chief of Staff for Senator Lee

David Rawle, for the Secretary of Commerce

April Miller Maenner, Shelter Director, Cecil County Domestic Violence Rape Crisis Center

Other Attendees

Kelley Mitchell

Cathleen Moeller

Tanya Pinkney

Margaret Rath



Jessica Binenstock
Brittany Luzader
Sarah Smalt

Expansion of the Address Confidentiality Program

While waiting for the rest of the task force to arrive, Ms. Hoyer outlined recent expansion to the Address Confidentiality Program (ACP) to include new staff and the collecting of demographic information on each new application per request of the Governor's Office of Crime Control and Prevention.

Opening Remarks

The Secretary opened the meeting by announcing that the Human Trafficking Task Force had been extended. Governor Hogan signed the bill the day before so the Safe Harbor Work Group will continue to meet for a third year. Secretary Wobensmith explained the need to focus our attention on the close relation between domestic violence and human trafficking. He requested any additions or corrections to the minutes from February's meeting. The minutes were approved. The Secretary introduced two ACP participants who were to address the task force.

Words from ACP Participants

The first ACP participant explained that Ms. Hoyer sought to create the Deed Recording Task Force because of the issue this participant ran into when she purchased her home. Because no system was in place to shield her information, she now feels completely unprotected. A quick search on the Internet revealed her name and address together on 50 different websites. She reiterated the importance of the task force not for her protection, as it is too late for that, but to protect others in the future, such as her daughter, also a survivor of domestic violence. She highlighted the fact that current laws give her abuser the right to her personal information, but she has no right to be protected. She expressed her appreciation for everyone serving on the task force.

The second ACP participant read several excerpts from the book she is writing detailing her experience as a victim of domestic violence in order to present the human side of the deed recording issue. Among her stories was one in which her violent ex-husband actually used public records to find someone who had crossed him. She ended by sharing her desire to put down roots and find stability by owning a home and not renting indefinitely, but how she knows she cannot do so until there is a way for her information to be protected.

The Secretary thanked the participants for highlighting deed recording as a real problem affecting people's lives. He requested the first presentations from the subgroups. Mr. Dieck volunteered.

Pros and Cons of Minnesota's Model

Mr. Dieck reminded the task force that his subgroup joined with that of Mr. Swanson and Mr. Baker. They agreed that Minnesota's system is strong because it is upheld by their law; if violated, it is a crime. He sees this as a pro because of its strength, but also as a con because of due process concerns. A person may unknowingly violate this law, but still be subject to a criminal penalty. His concern is that it is not clear whether the misdemeanor in Minnesota's law is a per se violation of the law versus an intentional violation. He listed several other pros: the ACP participant has control regarding who can access their information; nothing can be shared without written consent so the participants enjoy peace of mind; the real property notice gives structure to the system and establishes a process in addition to alerting title abstractors and examiners when they should look out for something different; and the fact that names and addresses are kept separately in this system so it is not possible to attach a name to an address. Mr. Dieck then noted the cons of Minnesota's deed recording system: it would be a drastic change to the system already in place in Maryland affecting all the players; the fact that the address must be disclosed allows for the possibility of clerical error; lenders with competitive rates may choose not to participate with those whose addresses must be shielded; it is burdensome and requires more time for the participant; it assigns more duties for clerks and those in charge of land records- bringing up again the possibility of clerical error; it makes clerks liable for a misdemeanor; it potentially creates a gap in the land records system; it requires an additional step for title extractors and examiners since they must go through the Secretary of State's office for access to the information; lastly the issue of privatization of land records- shielding information goes against why the current system was set up publicly in the first place.

The Secretary asked if there had been any litigation for the issues raised. Mr. Dieck responded that there has been litigation on per se or knowing and cited drunk driving as an example. Senator Lee mentioned that misdemeanor for disclosure is the intent element for the penalty up to 90 days. Mr. Dieck suggested looking to see if any Minnesota litigation was on the books. Senator Lee wondered about gross negligence. Mr. Dieck responded that it was unclear from the Minnesota statute.

Trust Option

Mr. Fox brought up the trust option and why it would be a problem with down payment assistance or for those using the FHA assistance. He said that the FHA requires the name of the owner/occupant to be on the Deed of Trust. Mr. Lore reminded that the owner is the beneficiary and must be noted on the deed. Mr. Fox affirmed this, adding that it could not be a master trust, but an individual trust for each buyer. Mr. Dieck mentioned that the FHA is federal, so perhaps the same thing can be done as in Minnesota regarding compliance with the Patriot Act. Ms. Yuzuik added that the federal government agency, FinCEN, authorized an exemption for participants in address confidentiality programs (ACPs) from the usual USA PATRIOT Act requirement that people provide financial institutions, or banks, their actual residential address. Ms. Yuzuik questioned whether FHA would fall under this exemption and be considered a financial institution. Mr. Dieck remarked that the FHA is not the lender or the investor, but would have another institution, perhaps Wells Fargo as the loan servicer. They are just putting up the money. Mr. Fox said that while that is costly, a private loan is even more expensive.

Shielding Information

Mr. Baker explained that upon request, they redact the handwritten social security number, but maintain the original. He said that whatever is out there for the public is redacted, so a similar system could be put into place for ACP participants. He suspects the number of requests would be manageable. He continued saying that anyone that needed to be shielded should be flagged in real time so they can be aware who is coming down the pike and redact the information before it is made public. Ms. Blough expressed her concern that the information is there when it is scanned unless it is the Elroy system. Mr. Baker worried that people can go to the courthouse to search the Elroy system. Mr. Lore said that Minnesota has a carve out for the courts. The Secretary asked Ms. Yuzuik to look into that. She agreed and continued to say that the Minnesota option does not create a cloud on title because it ensures further inquiry is necessary. Ms. Yuzuik further explained that the notice requires consent from ACP participants and that the title companies are aware of the issue. She agreed that it would be minimal burden on the current system because there are not thousands and thousands of participants who are seeking to purchase homes. She also suggested including protections as part of legislation to ensure unnecessary burdens are not placed upon the courts and the land recorders. Ms. Yuzuik elaborated on the trust option that the additional cost and burden it places on the State to preserve the victim's right to home ownership might not be warranted when a title searching system could be set up to shield information and permit access on a need to know basis. Since the trust option has so many issues, amending the current deed recording system is preferable. Ms. Blough shared her concern with Minnesota's system that the name is included in the grantor/grantee index. Ms. Yuzuik replied that in Maryland the participant's county would be accessible by pulling the land record. She is unaware of any way around that. She confirmed that in Minnesota, the name is included in the index, but not collocated with the address. The Secretary asked if Minnesota has had any problems with their shielding system. Ms. Hoyer reported no negative feedback from Minnesota.

Other Issues

The Secretary asked the other subgroups if there was anything else to be addressed. Ms. Yuzuik said that the Address Confidentiality Program would have to be expanded to 3rd parties. Ms. Hoyer agreed, stressing the importance of passing legislation to include private companies. Mr. Lore advised against recommending a 90 day misdemeanor for failure to accept the ACP provisions based upon the inability to pass similar legislation for failure to report child abuse. He suggested civil citation liability instead. Ms. Lennig wondered about intentionally disclosing the information, if a title company gives the address on purpose. Ms. Higgs said we could create a private cause of action. Senator Lee affirmed that we want a criminal penalty. Ms. Lennig suggested getting a group together to draft the statute and another group to examine the procedural issues in the clerk's office, to address the real life problems and take that back to the clerk's office. Senator Lee said that making something criminal gives it real teeth, but there must be intent. Ms. Yuzuik stated that the PIA also has a misdemeanor element for government officials who release information. The Secretary said that we first need to formulate legislation, then we can pick at it and make changes as needed. Ms. Lennig laughed that we have 260 days to do so. The Secretary replied that we do not want to wait that long since we need support in both the house and the senate and we have work to do educating people, especially regarding the outcome. Mr. Swanson asked if we had decided on some variation of Minnesota's model; that the trust model was completely out. The Secretary replied that everything seemed mostly positive from Minnesota's model, but that Ms. Yuzuik had pointed out several

problems with the trust option. Mr. Dieck asked if we could speak with a liason in Minnesota. He said that title searches are done by either name or address and questioned what Minnesota does if someone were to get a civil judgment and a creditor wants to attach a lien. Ms. Yuzuik responded that a judgment creditor has other tools to seek out assets and that the courts are subject to ACP provisions. In Minnesota, they can search by name and see that property is owned, but it does not disclose where. A judgment creditor must seek consent and the office of the Secretary of State must provide the information. She continued that the creditor can keep digging; it requires an extra step, but they can contact the Secretary of State. Also, protections can be written in allowing creditors to fully collect a debt. Mr. Dieck said that a judgment notice is subject to all protections. Many times, it is passive. After 30 days it is a lien, but in some counties it is not a lien unless indexed. He continued saying that when searching someone, they need to be sure that person does not have other property. In order to clarify a judgment or subpoena, one could get a judge to issue a court order. The Secretary asked Ms. Yuzuik and Mr. Dieck to get together, call Minnesota, then report back to the group once everything is sorted out. Ms. Hoyer added that Minnesota would be willing to come out and testify once we go for legislation. Mr. Lore asked if we should reach out to the FHA since they were able to make the necessary changes in Minnesota. Mr. Fox offered to look into that, and suggested a trust as an option in the meantime for participants while the changes to the current system are put into place. One of the ACP participants said that before buying her home she attempted the trust option, but it did not work because the lender would not lend to a trust even though he understood her situation and tried really hard to make it work. The discussion circled around the trust option once again until Ms. Yuzuik reminded that with all the uncertainty and potential issues, including too much intertwining of State and private, that a trust simply is not a viable option. Mr. Lore agreed, saying we can tell private entities to do certain things, like keeping information private, but we cannot tell them they must give a loan. Ms. Lennig added that there are so many advantages to the Minnesota option; while it is a change in the system, it is not a completely new system that needs to be implemented. The Secretary asked if anyone backed the trust option. Mr. Higgs said one positive about the trust option is that it is available right now, no need to wait on legislation.

Next Steps

Ms. Lennig suggested that the best thing to do is to get all the stakeholders together in the same room. The Secretary agreed that we should proceed, call Minnesota and get legislation together. Senator Lee said passing legislation is possible, but we are going to need all the stakeholders to be involved. Mr. Swanson said we need to make inquiries to Minnesota. Ms. Yuzuik will find out if they have had any criminal prosecution. Mr. Baker offered to be on the call to Minnesota. Mr. Rawle also volunteered. The Secretary asked if Mr. Lore was willing. He agreed. The Secretary urged the group to start drafting legislation. Ms. Yuzuik reminded that the General Assembly has a drafting office. Senator Lee recommended getting a sample together and offered to help should any issues arise. Mr. Lore said that April Morton (who attended the first deed recording meeting) is a drafter and that we can talk with her directly. Both Ms. Lennig and Mr. Dieck offered to take part in the drafting. The Secretary said we ought to call Minnesota soon, within the next couple of weeks. Ms. Hoyer requested input regarding the timeline for the next meeting. The group agreed on June.

Closing Remarks

The Secretary thanked the group and expressed special gratitude for the ACP participants who shared their experiences with everyone. The meeting adjourned at approximately 11:30 pm.



Office of the Secretary of State

Task Force to Study the Recording of Deeds for Victims of Domestic Violence
Wednesday, June 21, 2017
10 a.m. to 11:30 a.m.
Fred L. Wineland Building, 16 Francis Street, Annapolis, Maryland 21401

Members in Attendance

Secretary of State John Wobensmith

Delegate Anne Healey

Tim Baker, Maryland State Archives

James Cosgrove, Maryland Land Title Association

Brett Dieck, the Law Office of Brett M. Dieck, LLC and Old Line Title Company, Inc.

Anne Hoyer, Director of the Address Confidentiality Program

Dorothy Lennig, Attorney at House of Ruth Domestic Violence Legal Clinic

Michael Lore, Chief of Staff for Senator Lee

April Morton, Legislative Services

David Rawle, for the Secretary of Commerce

Frederick Smalls, Maryland Municipal League

Kevin Swanson, Maryland State Archives

Corbett Webb, Maryland Department of Assessments and Taxation

Josaphine Yuzuik, Assistant Attorney General

Other Attendees

Kelley Mitchell

Brittany Luzader

Sarah Smalt

Emma Craig

Garrett Haslinger

Logan Haarz

Opening Remarks

The Secretary welcomed everyone back and thanked them for their time and expertise. He acknowledged that last time we left off with many questions for Minnesota's Safe at Home program, so Ms. Yuzuik would provide a recap of the conference call from May 4. He highlighted that, according to the Minnesota Safe at Home Program, since the inception of changes to Minnesota's deed recording system in 2014, sixty Safe at Home participants have successfully purchased a home and kept their identity off public record. He encouraged the group to voice any concerns during the round table discussion today as they would later be hearing from April Morton regarding the next steps to take as a work group moving towards introducing legislation. He expressed his desire to put pen to paper and have something ready for review by the next meeting.

Address Shielding for Judges

Delegate Healey apologized for missing past meetings, citing a communication issue. Prior to this meeting, she read all the minutes and wondered if Maryland has a witness protection program, but was told that was only a federal program. She still questions a system in place for protecting the addresses of judges. She believes the address of the courthouse is the only address listed with their name. Ms. Hoyer said that a judge did try to join the ACP until he was told that he needed to move to a new location in order for the program to offer any protection. Delegate Healey continued to say that she believes judges are provided with these safety options when they become judges. Mr. Webb said he had never heard that. He thinks their names are still listed with their residential address on land records. The Secretary thought it would be interesting to see if there is something legislated for the protection of judges.

Conference Call Recap

Ms. Yuzuik provided an overview of the call with Minnesota addressing concerns mostly related to creditor's rights and judgment. Participants in the ACP who purchase a home with their deed recording system lose the right to be notified publicly if process cannot be served by mail since the address of the Secretary of State is what is shown in the paper. During the call, Dianna Umidon and Julie Strother of Minnesota's ACP outlined the process well, emphasizing the importance of timing and starting the notification process before the participant closes on the house since the process is not retroactive. The real property notice goes to the recorders and all government and private entities involved. She also mentioned that no one has been charged for disclosing the address though Wells Fargo is currently investigating a circumstance in which a notice was provided, but the address was inadvertently disclosed. Dianna also explained that, upon leaving the ACP, a participant has 90 days to notify the recorder's office before the ACP will do so. Ms. Yuzuik said the call was productive, addressing all of the group's concerns.

Criminal vs. Civil Penalty

Mr. Lore suggested floating both criminal and civil penalty to see if there is any resistance. Delegate Healey responded that it would be a committee assignment issue. Ms. Morton said not to worry about going after criminal penalty, as that would not necessarily impact the committee assignment.

Burden on the ACP

Delegate Healey asked if the office of the Secretary of State had analyzed the burden placed on the SOS especially regarding the collection of local taxes. Ms. Yuzuik explained that if a participant defaults on taxes, the county assessor, just like any other entity, can subpoena the ACP for the participant's address. Ms. Lennig explained that once a tax collector or bank has access to a participant's address through a court order, the Address Confidentiality Program/Secretary of State is no longer involved, so the burden on them is not overbearing. Ms. Hoyer explained that the

process would be the same as when one of the participants breaks the law. Process is served to the Secretary of State's office, signed by the ACP and considered served at that time to the participant since the ACP is the participant's designated agent for receiving mail. Mr. Dieck asked if the ACP signed for certified mail since some judges will reject service if it was not signed by the actual person. Ms. Hoyer explained that we do sign for certified mail, and make a copy of it, then notify the participant and forward it to him or her, unless he or she prefers to pick it up at the office. Mr. Lore said that ought to be enough for creditors to show that there was effective service.

Minnesota Law

Ms. Yuzuik broke down Minnesota's deed recording law for ACP participants into three parts: notification requirement, real property records, and duties of the Secretary of State/service of process; so the task force could use it as a guide to begin drafting legislation. The group agreed to the provisions in part one regarding notification requirement, but Mr. Dieck suggested that the tax id be included on the real property notice provided by participants to the county recorder.

Recording Process

Mr. Cosgrove stated that in Maryland the county recorder is the circuit court and any recording is done with an intake sheet universal to all 24 jurisdictions. From the preparer's standpoint, to simplify the process, he suggested an intake sheet specific to ACP participants. Delegate Healey asked about how this process might affect various tax credits. Mr. Cosgrove replied that there have been special provisions in certain circumstances, such as when people buy their home through a trust, that allow tax credits. Mr. Cosgrove asked how the clerk should preserve the notice especially since everything is done electronically. Should it be in a separate index to which only the clerks have access? Ms. Yuzuik suggested a private server. Mr. Swanson asked if this wasn't, by default, meant to be for relatively short-term conditions. Would it be necessary to demonstrate 20 years from now whether or not someone had been in the program? Ms. Lennig replied that the Secretary of State keeps records of that. Mr. Swanson asked what the clerk would be recording, what would be put in the line sequence. Ms. Yuzuik said it would show blank pages. Mr. Rawle said there is a step missing. The idea is that the notice would go to the clerk and the document would be masked. In that case, the notice does not need to be recorded. Only a masking document is needed. Mr. Baker connected this issue to when some lenders required a written social security number under a person's signature. This is now problematic as it is protected personal information, so they began masking the social security number, but preserving the original document. The masked document is available to the public. While this scenario is a little different, he said that theoretically we could keep both documents and not worry about a separate piece of paper saying that the document is masked. He continued to say that the process needs to be worked out in the courts themselves. Mr. Swanson added that there are lots of moving parts and chance for error. Mr. Cosgrove asked about assigning liber and folio numbers to the masked document or to the real property notice. The group discussed whether this was necessary and concluded that the real property notice does not require a liber folio number because it is not a public document, but since the masked documents may become public record upon the participant's termination or cancellation from the program, they should get assigned the liber and folio numbers.

Minnesota Law, continued.

Ms. Yuzuik brought the conversation back to the next part of Minnesota law which addresses time limit- every four years a participant must sent a new notice to keep their information masked. The group looked at subdivision 4a and 4b, real property records and title examination. The first subdivision instructs each county recorder to establish a process to comply with the requirements. The second states that procedures must provide public notice of the existence of recorded documents and certificates of title that are not publicly viewable and the provisions for viewing them. In Minnesota, they put a county with the name of the participant for a creditor or title examiner. Mr. Dieck said that in Maryland, you must

go through every county and each county has a different process in place. Mr. Cosgrove claimed this is what we would like to avoid; uniformity is necessary. Mr. Baker expounded upon that saying that the courts used to have discretion with how they created records, but now there have been efforts to consolidate. Ms. Lennig suggested providing model practices and procedures. Mr. Baker suggested we sketch out the process then go to the clerks. Ms. Lennig agreed, adding that we need to work with Kathleen and her group to establish procedures or best practices so land records offices do not have to reinvent the wheel 24 times.

Ms. Yuzuik brought up the last piece under Subdivision 4a; the Secretary of State has 90 days to alert the county recorder to a person no longer being a participant in the program. Mr. Dieck asked if the obligation falls on the participant or the Secretary of State. Ms. Yuzuik answered that it falls on the Secretary if a participant is cancelled, but if a participant withdraws, then the participant is responsible. Mr. Cosgrove asked about what happens if a participant dies. Ms. Yuzuik said that perhaps there should be a separate provision if a participant dies. Mr. Smalls asked if the ACP receives returned mail. He asked if that wouldn't alert the ACP to investigate a bit further and therefore discover whether or not a participant had died. Ms. Hoyer said that anytime mail is returned, the ACP seeks to discover the reason. Mr. Cosgrove stated that the process would not be limited to primary residence, but rather to any real property. Mr. Lore mentioned that there had only been 60 people in Minnesota who bought a home with this process. Ms. Hoyer added that we are not talking about tons of people. Mr. Dieck wondered what would be the risk of someone leaving the program but their information still remaining masked. It seems like a harmless error. Mr. Cosgrove asked how long it would take SDAT to update the record after receiving notice. Mr. Baker said that, presuming the original instrument is already in archives, it would simply be a change to the database; it would not take much time at all. He continued explaining that the main frame was updated every night in Annapolis. It does not make sense for only the archives to change. It must be updated from the source. The current process allows clerks to reprocess an item they send to archives for inclusion. Mr. Swanson agreed that making a change in the index data would not do any good if it was not also changed in the clerk's office. Delegate Healey asked if Minnesota law addresses victims of domestic violence who are landlords who may be trying to hide where they live. Ms. Yuzuik replied that she does not believe commercial interests were discussed. Ms. Hoyer thinks that may be a little too detailed and an unlikely scenario. Ms. Yuzuik refocused the group on Minnesota law as it is written; adding that she thinks everyone agrees that 90 days is more than enough time to alert the county recorders that a participant is no longer in the program. Their law allows 2 business days to get back to a searcher; Ms. Yuzuik asked if that was enough time for the title folks. Mr. Dieck said that it was too much time; it should not take that much time to get a title search completed. Mr. Cosgrove asked what would be given- in Minnesota it is just a written affirmation that a participant is in the program. Once you take this to the clerk, how soon can one obtain the information needed, then from archives? There is currently no process. Mr. Baker said that once an original deed is recorded, it is generally returned. How should information be provided from archives? Ms. Lennig asked if a copy could be printed out and handed over. Mr. Swanson said it could. Ms. Yuzuik said that Subdivision 5 addressing duties of Governmental Entities would be a good provision for our bill as well. Looking at the next subdivision, service of process, if service by publication is necessary, it is valid if the name of the participant is omitted and the Secretary of State is included in the published notice. Ms. Lennig said this seems fine since the participant would have signed an agreement to the Secretary of State's accepting service. Mr. Dieck said that sometimes you cannot get good service; a provision should be added regarding good faith efforts to serve. Ms. Yuzuik moved on to Subdivision 7, saying that it was good for Maryland to have as well because one agency might get a call from another agency who knows the participant and is helping keep records private, and this provision will reinforce the interagency cooperation required to ensure participants' data is kept from becoming public record where possible.

Role of Legislative Services

Ms. Morton introduced legislative services as a professional, nonpartisan staffing agency. She explained her role with bill drafting and helping legislators take their idea and fit it in with the code. They are responsible for ensuring the language of the law is consistent. She offered herself as a resource to the task force, willing to take their ideas and put it into language that works. She suggested that one next step might be taking the provisions from Minnesota law and seeing where they fit in with Maryland Annotated Code. She will flag what needs clarification and help iron out any inconsistencies. She explained that procedurally, the next steps then would be up to Delegate Healey and Senator Lee to introduce the bill on behalf of the task force; then it will go through the whole committee process.

Delegate Healey asked if the judiciary had participated in any of the work group discussions and suggested that the draft goes through the judiciary conference. Ms. Lennig recommended that since the clerks are independently elected, not falling under any administrative judge, it would be even more important to involve the clerks. She suggests getting a group together to walk it out and see how it works. Mr. Baker agreed that theoretically it may seem simple, but it may not prove so easy mechanically. Ms. Morton said to consider the effective dates and make sure the courts are on board.

Next Step: Working Groups

The Secretary asked to form two working groups, the first headed by Ms. Morton taking a lead on drafting legislation. Mr. Cosgrove, Ms. Lennig, Mr. Dieck, Mr. Rawle, Ms. Yuzuik and Senator Lee's office volunteered to participate. Ms. Blough, in her absence, was volunteered to lead the second group focusing on the clerks and the recording process. Mr. Cosgrove, Mr. Baker and Mr. Swanson offered to serve on that work group.

Mr. Cosgrove asked if any other states are currently working on this issue. Mr. Lore offered to do some research. The Secretary said he would ask the other Secretaries of State at their national conference.

Mr. Lore asked if criminal liability was being considered since Judicial Proceedings Committee was trying to get rid of criminal penalty. Delegate Healey said she would like to consider some sort of criminal penalty, particularly if the disclosure was malicious, to put someone in danger.

The Secretary thanked everyone and closed the meeting at 11:27 am.

Task Force to Study the Recording of Deeds for Victims of Domestic Violence
Tuesday, August 29, 2017
10 a.m. to 11:30 a.m.
Fred L. Wineland Building, 16 Francis Street, Annapolis, Maryland 21401

Members in Attendance

Secretary of State John Wobensmith

Senator Susan Lee

Michael Lore, Chief of Staff for Senator Lee

Tim Baker, Maryland State Archives

James Cosgrove, Maryland Land Title Association

Brett Dieck, the Law Office of Brett M. Dieck, LLC and Old Line Title Company, Inc.

Anne Hoyer, Director of the Address Confidentiality Program

Dorothy Lennig, House of Ruth Domestic Violence Legal Clinic

April Morton, Legislative Services

Frederick Smalls, Maryland Municipal League

Kevin Swanson, Maryland State Archives

Corbett Webb, Maryland Department of Assessments and Taxation

Josaphine Yuzuik, Assistant Attorney General

Kathleen Blough, Circuit Court Clerk, Supervisor of Land Records

Matthew Fox, Maryland Bankers Association

Other Attendees

Sydney Harrison, Circuit Court Clerk

Charles Cluster, SDAT

Kelley Mitchell, ACP

Brittany Luzader, ACP

Sarah Smalt, ACP

Emma Craig, ACP

Opening Remarks

Secretary Wobensmith thanked everyone for their attendance and praised the group for their great work as we wrap everything up. The task force will most likely meet one more time to go over the final report. He introduced Sydney Harrison, circuit court clerk, and thanked him for joining us today eager to share his insight on how our deed shielding process may be implemented in PG county.

Approval of Minutes

As there were no corrections to the minutes previously circulated to the members, the minutes from the meeting in June were approved.

Legislative Draft

The Secretary thanked Ms. Morton for her hard work in drafting the bill and asked her to introduce it to the group. Ms. Morton explained that she prepared a draft and circulated it to the members participating in the legislative subgroup. They met to discuss the draft but were left with some questions for the circuit court clerks. Ms. Blough shared notes from her meetings with other clerks and the county finance office. Ms. Morton revised the draft to reflect the subgroup discussion and the comments from the clerks. She walked the task force through this newer draft, highlighting the changes to the Family Law Article and State Government Article as well as new provisions under the Real Property Article. She also showed where the purpose of the ACP is expanded to include entities other than government agencies among those required to accept a participant's substitute address. She mentioned two issues that had not yet been decided: who should be responsible for notifying the clerks once a participant leaves the ACP and spelling out the procedure for clerks and SDAT to follow upon receipt of a notice to shield. Ms. Hoyer said the ACP will notify the clerks if a participant leaves the program. The group decided to include a general statement in the bill requiring clerks and SDAT to develop and implement a uniform process rather than outline the process itself within the bill.

Establishing Shielding Procedure

Mr. Cosgrove insisted on one uniform procedure for clerks versus a different procedure in each county. Mr. Webb agreed that only one set process was preferable. Ms. Blough said that the general guideline in the draft allows for one uniform procedure to be established. She believes this will be possible though the recording process varies from county to county. She clarified that the process begins at the county finance office, not with the clerks. Two meetings she had with the Anne Arundel county finance office and other agencies affected revealed their enthusiasm and willingness to do what they can to implement a process that will protect victims. Ms. Blough promised that once they are told what is expected, they will gladly comply. Her concern with the draft as it is written, giving clerks the responsibility of informing the finance office of the need to shield the deed, is that, since the deed originates in the finance office, it may already be public record by the time they are informed by the clerks.

Mr. Harrison said that in Prince George's County, recording is done electronically. The deed must first go through the treasury of the local county. Once it is cleared, it goes to the clerk's office where it is entered into the system automatically. He suggested meeting with the vendor to see how the deed can be shielded or redacted from the automatic electronic system. He emphasized the importance of knowing how the treasury intends to shield the deed before it gets to the clerks. He mentioned the Family Justice Center, a one stop shop for victims of domestic violence, as a resource. He considers deed shielding for victims a great idea, but worries about the high number of foreclosures in PG county and how that could be a problem, especially considering third party buyers.

Mr. Cosgrove responded that for these particular transactions, recording may have to be done on paper instead of electronically. In spite of technological advances, there are specific transactions that cannot be done electronically; deed recording for ACP participants may be among those. Ms. Yuzuik asked if we should consider drafting an exception so these deeds would not be filed electronically. Ms. Blough said that Minnesota has a law preventing electronic recording for the deeds of their ACP participants. Mr. Harrison asked how encumbrances work. Would they also be shielded just like the deed itself? Ms. Hoyer responded that they would be shielded; parties will be able to see that there is a lien on a specific property, but it will not be associated with an individual's name. When an abstractor needs that information, he or she must seek access through the ACP at the office of the Secretary of State.

To further clarify, Ms. Lennig explained that her organization, the House of Ruth, provides services for victims of domestic violence and has an office at PG County's Family Justice Center. They are one of many organizations initially responsible for verifying that a person is a true victim of domestic violence or trafficking before assisting with the application to join the ACP. She assured him that of these victims, the number of people able to purchase a home is very small, so even PG County should not be inundated with shielded liens for ACP participants. Mr. Harrison said that the recording instruments should at least be hand-walked in. Ms. Blough agreed and said that was the plan for Maryland State Archives as well when managing a shielded deed. Mr. Webb asked under what name would the deed be entered; will the property address itself be listed as the name? Mr. Swanson said that this was not something we want to legislate, especially considering the low number of participants purchasing property and how that might make it easy for an abuser to identify ACP deeds and narrow them down to the one belonging to the victim. Ms. Blough agreed, and stressed the importance of every entity being properly advised of the deed shielding and where they can find the information if needed. She said the cleanest way to alert people that they are at the right place is by using the property address as the name.

The group debated a few more details of the bill and the Secretary asked if all were in agreement with the bill once revised as discussed. All voted in favor.

Other Concerns

Mr. Cosgrove again voiced his concern with 24 different procedures being set up by 24 different county clerks. Mr. Dieck reminded that the bill requires a uniform statewide procedure to be established. Ms. Blough said that the procedure may have to vary a little due to each county being so different. The Secretary requested that Ms. Blough reach out to the clerk of Montgomery County, one of the counties rumored to have a more complicated recording system. Ms. Blough agreed and reminded the group that we are working towards establishing a procedure that is as simple and clean as possible and that every agency she has spoken with is on board. The clerks' office is the most task heavy regarding deed shielding, but they do not consider the burden too large. Mr. Harrison, as Vice Chair of the Circuit Court Clerks' Association, offered to bring the deed shielding issue to the Chair of the association. Ms. Blough said that the county finance offices meet together from time to time. She recommends we attend one of those meetings for their input and buy in.

Mr. Cosgrove asked if the bill would become effective October 1. Ms. Lennig said that was necessary to give everyone a chance to buy in since it typically takes six months to get organized. Mr. Harrison asked if settlement companies, who house a lot of personal information, have been included in conversation. Mr. Cosgrove replied that he is their representative on the task force. Senator Lee expressed that we have a good group with many entities represented, and that we are happy to include anyone else to have everything worked out before session starts.

Mr. Harrison referenced emergency hearings for child custody and asked how that correlates to this program. Ms. Lenning explained that in order to join the ACP, a participant must first move to a place unknown to the abuser. The majority of participants rent their homes; the ACP is not just for victims looking to purchase property. Ms. Yuzuik added that the courts already use the substitute address provided by the Secretary of State to participants. Ms. Hoyer offered to provide a background and a more thorough explanation of the ACP after the meeting. The Secretary briefly summed up that the ACP works closely with the MVA, Board of Elections and public schools to keep a participant's information off public record.

Mr. Harrison expressed his concerns with the number of tax liens in Prince George's County and asked how that makes sense with what this bill aims to accomplish. He also mentioned the importance of disseminating the new information among employees and the training that would involve. Ms. Blough agreed that liens are definitely a concern as they come from the IRS or other companies not subject to these laws. Ms. Hoyer explained that the participant's substitute address would be used to file with any

company, so the actual address should never be linked to the participant's name. Ms. Lennig believes the biggest challenge will be the infrequent use of this deed shielding system; that those trained on the procedure will no longer be in their positions when the need to shield a deed finally comes along. She reminded the group that since Minnesota, with a similar population to that of Maryland and about the same number of participants in their ACP, implemented a similar deed shielding system in 2014, only about 50 people have purchased a home. The Secretary stated that Maryland's ACP is expanding, that they have recently become a team of 8 employees and that they will be throughout the State, in every county, to provide support as needed.

When Mr. Harrison asked about exploring other options, such as a private trust, Mr. Dieck stated that he puts himself as the filer. He explained that the group did not consider an LLC an option due to filing fees and limited protection. The trust option was explored, but ruled out as there are limitations in conventional lending that would impair a participant from obtaining a commercially reasonable mortgage rate of interest to purchase property.

Legislative Strategy

Senator Lee expressed her appreciation for all the questions this meeting as they will prepare everyone for the hearing. The group briefly considered the best strategy for introducing the bill and will keep the dialogue open. Senator Lee praised the cooperation between the executive and legislative branches as very beneficial for victims of domestic violence.

Closing Remarks

The Secretary thanked everyone for coming together and looks forward to further input from the clerks to see what else needs to be done. The meeting adjourned a few minutes before 11:30 am.



Task Force to Study the Recording of Deeds for Victims of Domestic Violence

Wednesday, November 15, 2017

10 a.m. to 11:30 a.m.

Fred L. Wineland Building, 16 Francis Street, Annapolis, Maryland 21401

Members in Attendance

Secretary of State John Wobensmith

Delegate Anne Healey

Michael Lore, Chief of Staff for Senator Lee

Tim Baker, Maryland State Archives

Kevin Swanson, Maryland State Archives

Kathleen Blough, Circuit Court Clerk, Supervisor of Land Records

Charles Cluster, for Michael Higgs, Maryland Department of Assessments and Taxation

James Cosgrove, Maryland Land Title Association

Brett Dieck, the Law Office of Brett M. Dieck, LLC and Old Line Title Company, Inc.

Matthew Fox, Maryland Bankers Association

Anne Hoyer, Director of the Address Confidentiality Program

Dorothy Lennig, House of Ruth Domestic Violence Legal Clinic

Frederick Smalls, Maryland Municipal League

Josaphine Yuzuik, Assistant Attorney General

Other Attendees

Gary Maragos, Maryland Department of Planning

Kelley Mitchell, ACP

Brittany Luzader, ACP

Opening Remarks

Secretary Wobensmith opened the group's last meeting by acknowledging how well everyone contributed to the effort. He recognized that it was not easy, noted the complexities of the issue, and thanked everyone for their brain power. He introduced Gary Maragos, Manager of Maryland Department of Planning's Property Mapping Unit, and thanked him his tax map demonstration for earlier that week for Ms. Yuzuik and the ACP and for attending the meeting to offer his input as we hammer out the details.

Approval of Minutes

As there were no corrections to the minutes previously circulated to the members, the minutes from the meeting in August were approved.

Clerks' Concerns

Ms. Blough updated the group on her meeting the day before with the Association of Circuit Court Clerks. She and Ms. Luzader presented the ACP program and the deed shielding proposal. Ms. Blough explained the procedure she had developed with Anne Arundel County and the City of Annapolis. The clerks were all very receptive. They asked questions mostly related to the ACP program, not the deed shielding process. Ms. Blough solicited their help in further developing the shielding procedure to ensure it is uniform across the state and properly implemented in each county or jurisdiction. The county and tax offices expressed willingness to shield participant information. Ms. Blough addressed concerns about releases in bulk being scanned into the system without anyone looking at the names by saying the clerks can run the name of shielded participants once a week or once a month, whichever is recommended, to make sure information did not make it into the system. Some clerks asked about the banking industry or what happens if the notice/assignment is sold, for example. Ms. Blough explained that we hope to work with local banks once participants apply for loans, perhaps one bank will be willing to do the loans for all participants. For refinancing, participants must request the release be sent to them. Ms. Lennig said that over time, as more and more states move in this direction, the banks will come up with something. Delegate Healey said as a legislative issue, we should reach out to the banks in advance. Mr. Fox who has actively attended task force meetings on behalf of the Maryland Bankers Association reassured the group that the banks wholeheartedly support the deed shielding proposal. Ms. Blough said that she asked the recorder in Minnesota about refinancing, but none of their participants have done so yet.

Deed Shielding Process

Ms. Blough outlined the deed shielding process; the deed will be executed like a normal deed, taxed, and scanned as a normal record in order to get the reference numbers. The "shielded document" and "page intentionally left blank" pages will be scanned over the instrument. The task force agreed that the "Restricted Document" page should instruct the person trying to view the instrument to contact the Office of the Secretary of State. Ms. Blough continued to explain that 3 certified copies of the deed would be made by the Clerks; one sent with the cover page to SDAT, the other copy to the SOS, and the final copy to be kept under lock and key at the Clerks' Office. She asked if Archives needed a copy from the Clerks and they replied that they did not. Mr. Dieck mentioned that if a title search is run on the seller, the shielded document would come up. The person would bring written permission from the SOS in order to view the instrument. Mr. Cosgrove asked if the title searcher could make a copy of the instrument. Ms. Blough responded that she understood it to limit permission to viewing the instrument. Mr. Cosgrove explained that a full title index is preferred to check the grantor/grantee. Ms. Yuzuik said that according to the proposal, if a person consents to the process to gain access to the deed, he has an obligation under the law to treat it as confidential. Ms. Blough suggested we do something like in Minnesota, where they use a form that has all the pertinent information except the name of the participant. Mr. Fox said there was no reason to shield the information from the abstractor. Ms. Lennig agreed, noting how much confidential

information; social security numbers, credit card numbers, etc., they have access to. Ms. Blough mentioned that in order to address concerns with Home Owners Associations and changes to bylaws, etc, a list will be provided to ACP participants about what they need to be aware of during the home buying process, including instructions for participants to bring with them to settlement. Mr. Cosgrove stressed the importance of the participants being up front with any lender, and of alerting them early on. Ms. Hoyer acknowledged that this process is designed to protect participants and that it is a bit cumbersome for them, as is participation in the ACP, but it is worth it to them because it is for their safety. She explained that the participants will be given a packet from the ACP with all the information they need, and that ACP staff are available to walk them through the process, like they do with interactions with other agencies.

Shielding and Co-ops

Delegate Healey asked about co-ops and other common ownership communities. Mr. Cluster said that SDAT is in the process of transforming some from co-ops for the homestead credits and that a certain percentage falls under the name of the co-op; the name of the person is not used. Ms. Lennig said not using the name would make this a non-issue. Ms. Yuzuik agreed since SDAT is assessing the co-op, the property, not the individual. A few minutes later, after receiving communication from SDAT, Mr. Cluster confirmed that co-ops are kept in the name of the co-op.

Shielding and Plats

Secretary Wobensmith asked Mr. Maragos if Planning had any concerns with the process. Mr. Maragos said that plats come to mind since they are a public record and include the owner's signature. He explained that if anything were to be platted- a subdivision created or a land exchange with a neighbor, even a simple land swap-will be recorded by the county then go to land records. He added that since they are not searchable by name, however, they shouldn't be a problem. He continued saying that Planning has never received confidential documents, but that if something results in a land change, Planning and the county offices receive a paper deed from SDAT. Mr. Cluster ensured that SDAT would work out that procedure in house.

Review of Most Recent Bill Draft

Secretary Wobensmith reminded the group that not all of this needs to be detailed in legislation. We will figure out procedurally what works best as time goes on. Ms. Yuzuik drew everyone's attention to the most recent draft of our bill, circulated to the members the day before. Ms. Yuzuik proposed we strike from FL 4-520(4) and SG 7-302(4) "receiving mail from any person" and replace with "all purposes" which mirrors Minnesota's purpose section and clarifies our intent to be broad. Mr. Lore asked if all purposes included election law. Ms. Yuzuik responded that the Board of Elections was addressed elsewhere in the existing ACP statutes. Delegate Healey added that abusing the program for election purposes would be fraud. Ms. Yuzuik said that is spelled out to each potential participant on the ACP application. Next, Secretary Wobensmith suggested changing 90 to 30 days in FL 4-525(d)(2) and SG 7-307(d)(2) by which time the Secretary of State needs to notify certain agencies that a person is no longer a program participant. This was discussed and agreed upon by everyone. Mr. Baker said it was desirable to add Maryland State Archives to RP 3-118(c)(3)(i) as an additional party to receive written notice from the Secretary. The group decided to omit RP 3-117(A)(3)(ii) since this provision regarding an alphabetical index is not needed. Once the deed is subject to shielding, the participant's name will not be in the Clerk of Courts' public records at all. Pending input from our bill drafters, the group is considering adding municipalities or "State and local agencies" to include a broader range of local government entities in RP 3-117(B) as well as remove "tax" from RP 3-117(B) to ensure it covers all records kept by local governments and municipalities (tax records, water and sewer records, zoning records, etc.). As encouraged by Mr. Cosgrove, the group recommends adding "uniform" before procedures in RP 3-117(B). Ms. Hoyer stressed the importance of adding provisions to address the use of an "ACP Notice to Private Entities." Private entities covered will include both those directly connected to the real



Office of the Secretary of State

estate transaction (title company, finance parties, notaries, home owners association, etc.) and those not directly related (water, electric, cable company, etc.). It was stated that perhaps this notice provision should go in the Family Law Article and State Government Article, because it is not solely to be used in the shielding context.

Delegate Healey offered to be the lead House Sponsor of the bill on behalf of the task force.

Final Report

The group briefly discussed the final report due December 1. The group was encouraged to send a statement of support or anything else they would like to contribute before next week or when the report is circulated to the group for comment.

Closing Remarks

Secretary Wobensmith thanked everyone for their attendance and adjourned the meeting just before 11:30 am.