



Best Practices for Public Record Privacy Protections



What are best practices for address confidentiality, public record privacy or redaction laws, designed to protect statutorily defined parties from having the combination of their name and address information made available through government records disclosure or online database access?

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

- A process to allow disclosure of the unredacted record providing constructive notice to a specific entity or for permissioned access to be made available to:
 - Someone with a signed release from the protected individual or court order;
 - Licensed professionals with existing consumer privacy/confidentiality requirements (attorneys, title professionals, assessors, etc.);
 - Licensed entities with a signed confidentiality agreement with a government entity.
- State-wide uniform standards and processes must be followed to ensure all records pertaining to a statutorily defined party are properly protected.
- Names or designated identifiers contained in a record index must not be hidden or redacted. Records must be discoverable within the public records index, which should include a flag indicating that the document is subject to statutory privacy protections.
- Privacy protection requests should be recognized only as long as someone is part of an address confidentiality program or considered a statutorily defined protected party. Privacy protections should be time limited to minimize long-term impact on the real estate conveyancing system and ensure the continued accuracy of the public records. As necessary, a renewal request can be submitted every four to six years.
- A process for record restoration must exist to facilitate real estate transactions and transfers, or administration of a will.
- Authorized access to unredacted records providing constructive notice should be available electronically, as well as in-person, to accommodate access for non-local authorized parties.
- Government entities and third parties should maintain robust records to track and log access of protected records.

How do successful state programs and laws work?

Successful state programs have taken one of two approaches:

1. In [Arizona](#), an eligible person files an affidavit with the court to prohibit the general public from accessing their personal information. If approved by the court, an order is issued directing the county clerk to prohibit public access to the information. The prohibition on public access expires after several years. Access to the unredacted record providing constructive notice is available for real estate/title professionals.
2. In [Minnesota](#), there is an address confidentiality program known as Safe at Home. In a state with an address confidentiality program, an eligible person files an application with a state agency, usually the Attorney General or Secretary of State, to certify eligibility for the program. Once certified, a participant may distribute forms to all entities involved in a real estate transaction, requiring the privatization of address information. Government entities are prohibited from sharing, or making public, the person's name in conjunction with their address unless they have signed consent to share the information for a specified purpose.

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