

SUMMARY ANALYSIS OF AMENDED BILL

Author: Jones Analyst: Deborah Barrett Bill Number: AB 1168

Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: August 31, 2007 & September 5, 2007

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Security of Social Security Numbers/FTB Truncate Social Security Numbers On Lien Abstracts And Any Other Records Created By The Board That Are Disclosable

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 16, 2007, STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This bill would require the Franchise Tax Board (FTB) to truncate social security numbers (SSNs) on liens or other documents made public.

The bill would also establish a task force to review the use of SSNs by post-secondary institutions in the state that do not impact FTB and are not discussed in this analysis.

SUMMARY OF AMENDMENTS

The August 31, 2007, amendments would do the following:

- Remove the unfunded local agency redaction mandate and provide legislative intent language that, in order to protect against identity theft, local agencies should redact the SSNs from documents prior to making them public,
- Reduce the number of records that County Recorders must truncate by requiring redaction only on documents filed after January 1, 1980, instead of January 1, 1962,
- Remove authority for the Secretary of State (SOS) to refuse to accept documents with SSNs for filing,

Board Position:	Legislative Director	Date
<input checked="" type="checkbox"/> S	Brian Putler	9/12/07
<input type="checkbox"/> NA		
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> NP		
<input type="checkbox"/> O		
<input type="checkbox"/> NAR		
<input type="checkbox"/> OUA		
<input type="checkbox"/> PENDING		

- Align SOS's truncation requirements similar to those of the County Recorder, and
- Provide definitions of terms used in the bill.

The September 5, 2007, amendments would do the following:

- Change the due date for the task force report,
- Require the SOS to provide financing statements in a form that does not request an SSN, and
- Require a County recorder to provide a public record only for the fraction of the official record for which the fee is sufficient to create a public record version.

The August 31, 2007, amendments resolved the "Implementation Consideration" identified in the department's analysis of the bill as amended August 1, 2007, and would revise the "Economic Impact" provided in the department's analysis of the bill as amended July 17, 2007. Consequently, the "This Bill" and "Revenue Estimate" discussions from the July 17, 2007, analysis have been revised. The remainder of the department's analysis of the bill as amended April 16, 2007, still applies.

POSITION

Support.

In its meeting on September 5, 2007, the three-member Franchise Tax Board voted 2-0, with the member from the Department of Finance abstaining, to support the provisions of this bill, as amended August 1, 2007.

THIS BILL

This bill would make changes to the way state, county, and all local levels of government make documents that may contain an SSN available to the public.

On the state level, the bill would prohibit state agencies from filing or recording documents with a local agency that contains more than the last four digits of an SSN. Unless prohibited by federal law, the bill would require FTB to truncate SSNs on any record created by FTB that is disclosable under the Public Records Act and expressly includes lien abstracts. SSNs would be required to be truncated by redacting the first five digits of the SSN so that no more than the last four digits of any SSN are displayed.

The bill would require the SOS to truncate the SSN on any existing filed document before making it available to the public. The bill would require filing offices to create a "public filing" as defined, of any record filed prior to August 1, 2007, that contains an SSN. Under the provisions of this bill, SOS would be required to provide a financing statement form that would not have a space for an SSN to be provided. Filing offices are to post notices on their public websites informing filers not to include SSNs on any portion of their filings. The online system in a filing office cannot contain a field requesting an SSN. After August 1, 2007, a filing office must create a public filing of any official filing that contains an untruncated SSN. An official filing may only be disclosed in response to a subpoena or order of a court of competent jurisdiction.

On the local level, the bill provides legislative intent language that local agencies or filing offices should truncate the SSN on any document required to be made available to the public in order to prevent identity theft.

“Official filing” would mean the permanent archival filing of all instruments, papers, and notices as accepted for filing by a filing office. “Public filing” would mean a filing that is an exact copy of an official filing except that any SSN contained in the copied filing is truncated. The public filing would have the same legal force and effect as the official filing. Truncate means to redact at least the first five digits of an SSN. Truncated SSN means an SSN that displays no more than the last four digits of the SSN.

And, on a county level, except for death records, this bill would establish the Social Security Number Truncation Program within the offices of the county recorder of each county. The program would require the county recorder to create a “public record” version of each “official record” maintained in the county recorder files. A “public record” would be a record that is an exact copy of an official record except that any SSN contained in the copied filing is truncated. An “official record” would be the permanent archival record of all instruments, papers, and notices as accepted for filing by a county recorder.

Creation of public records would be accomplished by recreating the official record in an electronic format and truncating any SSN on the record. This bill would require the county recorder to make only the public record available upon request. The official record would be made available only upon court order or subpoena.

The bill would provide that until the public record version of an official record is created (SSNs are truncated), a request for access to an official record would be permitted. For records recorded from January 1, 1980, through December 31, 2008, the bill would require the recorder to first truncate records that already exist in an electronic format and then create the electronic version of all other records. Each group of records is to be handled in descending chronological order.

For each official filing recorded on or after January 1, 2009, the recorder would be required to create a copy of that filing in an electronic format and truncate any SSN contained in that filing. The recorder would be deemed to be in compliance and have exerted due diligence if an automated program with a high rate of accuracy is used to identify and truncate SSNs in the official filings.

The bill would specify that if the county recorder determines that the fee authorized to fund the truncation program is insufficient to meet the cost of creating the public record version of the official documents, then the recorder would only be required to make public record versions of official documents based on the fraction of documents that would be covered by the fees. For instance, if the recorder determines that the fees charged would only cover 25% of the documents on file, the recorder would only be required to convert 25% of the official documents into public record documents.

This bill would provide that any person may request that a recorder truncate an SSN contained in any public filing. The recorder would be required to truncate that number within ten business days of receiving the request that includes the exact location of the SSN within a specifically identified public filing.

The bill would authorize each county recorder, as approved by that county's board of supervisors, to charge an additional dollar for each page recorded and would limit the use of the funds for purposes of implementing the truncation program. The bill contains additional provisions specific to the process for the county recorder to be able to assess the additional fee that do not impact FTB and are not discussed in this analysis.

This bill would require by January 1, 2009, and annually thereafter, the County Recorders Association to report to the Legislature and the Office of Privacy Protection (OPP) on the progress each county recorder has made in complying with this bill's provisions. When OPP has determined that all counties have completed the requirements of the program, the report would no longer be required.

This bill would establish a task force to review the use of SSNs by post secondary institutions in California. These provisions do not impact FTB and are not discussed in this analysis.

Revenue Impact

Due to the August 31, 2007, amendments, liens will be filed with SOS using a truncated SSN, which would eliminate the potential for misidentification of FTB liens on file with SOS. The revenue estimate is revised to reflect that the bill would have no impact on state income tax revenue.

LEGISLATIVE STAFF CONTACT

Deborah Barrett
Franchise Tax Board
(916) 845-4301

Deborah.Barrett@ftb.ca.gov

Brian Putler
Franchise Tax Board
(916) 845-6333

brian.putler@ftb.ca.gov