

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 283 Session of 2019

INTRODUCED BY SIMMONS, NEILSON, IRVIN, BARRAR, LAWRENCE, FREEMAN, KORTZ, RADER, B. MILLER AND GABLER, JANUARY 30, 2019

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 6, 2019

AN ACT

1 Amending the act of February 14, 2008 (P.L.6, No.3), entitled
2 "An act providing for access to public information, for a
3 designated open-records officer in each Commonwealth agency,
4 local agency, judicial agency and legislative agency, for
5 procedure, for appeal of agency determination, for judicial
6 review and for the Office of Open Records; imposing
7 penalties; providing for reporting by State-related
8 institutions; requiring the posting of certain State contract
9 information on the Internet; and making related repeals," in
10 preliminary provisions, further providing for definitions; in
11 procedure, further providing for written requests; and, in
12 judicial review, further providing for fee limitations.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 102 of the act of February 14, 2008
16 (P.L.6, No.3), known as the Right-to-Know Law, is amended by
17 adding a definition to read:

18 Section 102. Definitions.

19 The following words and phrases when used in this act shall
20 have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 * * *

1 "Commercial purpose." The use of a record: <--

2 ~~(1) for the purpose of selling or reselling any portion~~
3 ~~of the record;~~

4 ~~(2) to obtain names and addresses from the record for~~
5 ~~the purpose of solicitation; or~~

6 ~~(3) for any other purpose through which the requester~~
7 ~~can reasonably expect to make a profit.~~ AS FOLLOWS: <--

8 (1) THE USE OF A RECORD FOR ANY OF THE FOLLOWING
9 PURPOSES:

10 (I) SELLING OR RESELLING ANY PORTION OF THE RECORD.

11 (II) OBTAINING NAMES AND ADDRESSES FROM THE RECORD
12 FOR THE PURPOSE OF COMMERCIAL SOLICITATION.

13 (III) ANY OTHER PURPOSE THROUGH WHICH THE REQUESTER
14 CAN REASONABLY EXPECT TO GENERATE REVENUE.

15 (2) THE TERM DOES NOT INCLUDE THE USE OF A RECORD BY A
16 NONPROFIT EDUCATIONAL OR NONCOMMERCIAL SCIENTIFIC INSTITUTION
17 FOR SCHOLARLY OR SCIENTIFIC RESEARCH OR THE USE OF A RECORD
18 BY THE NEWS MEDIA, A JOURNALIST OR AN AUTHOR FOR NEWS
19 GATHERING OR DISSEMINATION IN A NEWSPAPER, PERIODICAL, BOOK,
20 DIGITAL PUBLICATION OR RADIO OR TELEVISION NEWS BROADCAST.

21 * * *

22 Section 2. Section 703 of the act is amended to read:

23 Section 703. Written requests.

24 (a) General rule.--A written request for access to records
25 may be submitted in person, by mail, by e-mail, by facsimile or,
26 to the extent provided by agency rules, by any other electronic
27 means. A written request must be addressed to the open-records
28 officer designated pursuant to section 502. Employees of an
29 agency shall be directed to forward requests for records to the
30 open-records officer. A written request should identify or

1 describe the records sought with sufficient specificity to
2 enable the agency to ascertain which records are being requested
3 and shall include the name and address to which the agency
4 should address its response. [A]

5 (b) Reason for request.--Except as provided in subsection
6 (c), a written request need not include any explanation of the
7 requester's reason for requesting or intended use of the records
8 unless otherwise required by law.

9 ~~(c) Commercial purpose. A written request for the~~ <--
10 ~~duplication of a record shall include a statement indicating~~
11 ~~whether or not the requester intends to use the record for a~~
12 ~~commercial purpose.~~

13 (C) COMMERCIAL REQUESTS.--AN AGENCY MAY REQUIRE A REQUESTER <--
14 TO CERTIFY IN WRITING WHETHER THE REQUEST IS FOR A COMMERCIAL
15 PURPOSE. CERTIFICATION SHALL BE SUBMITTED IN A MANNER APPROVED
16 BY THE OFFICE OF OPEN RECORDS. A REQUESTER THAT SUBMITS A FALSE
17 WRITTEN STATEMENT UNDER THIS SUBSECTION SHALL BE SUBJECT TO 18
18 PA.C.S. § 4904 (RELATING TO UNSWORN FALSIFICATION TO
19 AUTHORITIES).

20 Section 3. Section 1307 of the act is amended by adding a- <--
21 ~~subsection~~ SUBSECTIONS to read: <--

22 Section 1307. Fee limitations.

23 * * *

24 (e.1) Records to be used for a commercial purpose.--

25 (1) In responding to a request for records that will be
26 used for a commercial purpose, an agency may charge a
27 requester additional standard fees for the search, review and
28 duplication of the records. The fees for records to be used
29 for a commercial purpose must be reasonable, must be approved
30 by the Office of Open Records and may not be established with

1 the intent or effect of excluding persons from access to
2 records or duplicates thereof or of creating profit for the
3 agency.

4 ~~(2) Paragraph (1) shall not apply to:~~ <--

5 ~~(i) a request made for records that are subject to~~
6 ~~the fees under subsection (b) (4);~~

7 ~~(ii) a request by an individual employed by or~~
8 ~~connected with a newspaper or magazine of general~~
9 ~~circulation, weekly publication, press association or~~
10 ~~radio or television station, for the purpose of obtaining~~
11 ~~information for publication or broadcast; or~~

12 ~~(iii) a request by a nonprofit organization for the~~
13 ~~purpose of conducting educational research.~~

14 * * *

15 (2) PARAGRAPH (1) SHALL NOT APPLY TO A REQUEST FOR <--
16 RECORDS THAT ARE SUBJECT TO THE FEES UNDER SUBSECTION (B) (4).

17 * * *

18 (I) ALTERNATIVE FEE ARRANGEMENT.--AN AGENCY AND A REQUESTER
19 MAY ENTER INTO A CONTRACT, MEMORANDUM OF UNDERSTANDING OR OTHER
20 AGREEMENT THAT PROVIDES AN ALTERNATIVE FEE ARRANGEMENT TO THE
21 FEES AUTHORIZED UNDER THIS SECTION. AN AGREEMENT UNDER THIS
22 SUBSECTION SHALL BE PUBLIC.

23 (J) APPEALS.--A FEE CHARGED UNDER THIS SECTION MAY BE
24 APPEALED TO THE OFFICE OF OPEN RECORDS.

25 Section 4. This act shall take effect in 60 days.