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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 187 Session of  
2017

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INTRODUCED BY MCGARRIGLE, RAFFERTY AND KILLION, JANUARY 25, 2017

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REFERRED TO STATE GOVERNMENT, JANUARY 25, 2017

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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 \* \* \*

23 "Commercial purpose." The use of a record:

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

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

5           (3) for any other purpose that the requester can  
6 reasonably expect to make a profit.

7 The term does not include the use of a public record by an  
8 educational or noncommercial scientific institution for  
9 scholarly or scientific research or the use of a public record  
10 by the news media for dissemination in a newspaper, periodical  
11 or radio or television news broadcast.

12       \* \* \*

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

14       Section 703. Written requests.

15       (a) Method of submission.--

16           (1) A written request for access to records may be  
17 submitted in person, by mail, by e-mail, by facsimile or, to  
18 the extent provided by agency rules, by any other electronic  
19 means. A written request must be addressed to the open-  
20 records officer designated pursuant to section 502. Employees  
21 of an agency shall be directed to forward requests for  
22 records to the open-records officer. A written request should  
23 identify or describe the records sought with sufficient  
24 specificity to enable the agency to ascertain which records  
25 are being requested and shall include the name and address to  
26 which the agency should address its response. [A]

27           (2) Except as otherwise provided under subsection (b), a  
28 written request need not include any explanation of the  
29 requester's reason for requesting or intended use of the  
30 records unless otherwise required by law.

1 (b) Statement relating to commercial purpose.--

2 (1) A written request for the duplication of a record  
3 should include a statement indicating whether or not the  
4 requester intends to use the record for a commercial purpose.

5 (2) If a requester does not disclose the requester's  
6 intention to use the records for a commercial purpose, the  
7 requester may not use the record for a commercial purpose.

8 (3) An agency may deny a written request for access to a  
9 record on the basis that the written request fails to include  
10 the statement specified in paragraph (1).

11 (4) If the written request includes the statement  
12 specified in paragraph (1), it shall be presumed that the  
13 statement is true and correct. The request and the  
14 information contained in the request shall be subject to the  
15 provisions of 18 Pa.C.S. § 4904 (relating to unsworn  
16 falsification to authorities).

17 Section 3. Section 1307 of the act is amended by adding a  
18 subsection to read:

19 Section 1307. Fee limitations.

20 \* \* \*

21 (i) Search and review fees.--In addition to fees charged  
22 under subsection (b), additional reasonable standard fees for  
23 the search and review of records may be assessed as follows when  
24 records are requested for a commercial purpose:

25 (1) Search and review fees may be assessed at a per-  
26 quarter-hour rate determined by each agency to cover the  
27 actual cost associated with time expended by agency employees  
28 in fulfilling a request for records to be used for a  
29 commercial purpose.

30 (2) The search and review fee rate shall not exceed the

1 quarter-hour rate of pay of the agency employees fulfilling  
2 the request plus 20%.

3 (3) An agency may waive or reduce the search and review  
4 fees if the agency deems the disclosure of the information is  
5 in the public interest.

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