

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 15, 2020

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."

2 As follows:

3 (1) The use of a record for any of the following
4 purposes:

5 (i) Selling or reselling any portion of the record.

6 (ii) Obtaining names and addresses from the record
7 for the purpose of commercial solicitation.

8 (iii) Any other purpose through which the requester
9 can reasonably expect to generate revenue.

10 (2) The term does not include the use of a record by a
11 nonprofit educational or noncommercial scientific institution
12 for scholarly or scientific research or the use of a record
13 by the news media, a journalist or an author for news
14 gathering or dissemination in a newspaper, periodical, book,
15 digital publication or radio or television news broadcast.

16 * * *

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

18 Section 703. Written requests.

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

30 (b) Reason for request.--Except as provided in subsection

1 (c), a written request need not include any explanation of the
2 requester's reason for requesting or intended use of the records
3 unless otherwise required by law.

4 (c) Commercial requests.--An agency may require a requester
5 to certify in writing whether the request is for a commercial
6 purpose. Certification shall be submitted in a manner approved
7 by the Office of Open Records. A requester that submits a false
8 written statement under this subsection shall be subject to 18
9 Pa.C.S. § 4904 (relating to unsworn falsification to
10 authorities).

11 Section 3. Section 1307 of the act is amended by adding
12 subsections to read:

13 Section 1307. Fee limitations.

14 * * *

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

16 (1) In responding to a request for records that will be
17 used for a commercial purpose, an agency may charge a
18 requester additional standard fees for the search, review and
19 duplication of the records. The fees for records to be used
20 for a commercial purpose must be reasonable, must be approved
21 by the Office of Open Records and may not be established with
22 the intent or effect of excluding persons from access to
23 records or duplicates thereof or of creating profit for the
24 agency.

25 ~~(2) Paragraph (1) shall not apply to a request for~~ <--

26 ~~(2) PARAGRAPH (1) SHALL NOT APPLY TO ANY OF THE~~ <--

27 FOLLOWING:

28 (I) A REQUEST FOR records that are subject to the
29 fees under subsection (b)(4).

30 (II) A REQUEST FOR RECORDS THAT ARE SUBJECT TO FEES <--

1 ESTABLISHED IN LAWS OR REGULATIONS OF THIS COMMONWEALTH
2 THAT ARE NOT SUBJECT TO THIS ACT.

3 (III) A REQUEST FOR RECORDS FROM AN ATTORNEY ON
4 BEHALF OF A CLIENT IF RECORDS ARE NOT OBTAINED FOR THE
5 PURPOSE OF SELLING, RESELLING OR SOLICITATION BY THE
6 ATTORNEY OR THE CLIENT OR USED BY THE CLIENT FOR A
7 COMMERCIAL PURPOSE.

8 * * *

9 (i) Alternative fee arrangement.--An agency and a requester
10 may enter into a contract, memorandum of understanding or other
11 agreement that provides an alternative fee arrangement to the
12 fees authorized under this section. An agreement under this
13 subsection shall be public.

14 (j) Appeals.--A fee charged under this section may be
15 appealed to the Office of Open Records.

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