

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1087 Session of
2013

INTRODUCED BY ADOLPH, KILLION, BARRAR, WATSON, EVERETT, BAKER,
SWANGER, O'NEILL, STEPHENS, W. KELLER, CALTAGIRONE, ROZZI,
SCHLOSSBERG, BLOOM, MUSTIO, MILLARD, MAJOR, KORTZ, MACKENZIE,
PASHINSKI, KULA, FLECK, C. HARRIS, DENLINGER, GINGRICH,
MAHONEY, ROSS, FARRY, PEIFER, COHEN, DeLUCA, D. COSTA, HESS,
MOUL, M. K. KELLER, CLYMER, CARROLL AND GRELL, APRIL 3, 2013

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 3, 2013

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,"
10 further providing for definitions, for written requests and
11 for fee limitations.

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

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

17 Section 102. Definitions.

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

1 * * *

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

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

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

7 (3) for any other purpose through which the requester
8 can reasonably expect to make a profit.

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

14 * * *

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

16 Section 703. Written requests.

17 (a) Method of submission.--

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

29 (2) Except as otherwise provided under subsection (b), a
30 written request need not include any explanation of the

requester's reason for requesting or intended use of the records unless otherwise required by law.

(b) Statement relating to commercial purpose.--

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

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

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

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

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

Section 1307. Fee limitations.

* * *

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

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

1 commercial purpose.

2 (2) The search and review fee rate shall not exceed the
3 quarter-hour rate of pay of the agency employees fulfilling
4 the request plus 20%.

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

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