
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 312 Session of
2021

INTRODUCED BY BROOKS, MENSCH, VOGEL, MASTRIANO AND STEFANO,
MARCH 10, 2021

REFERRED TO STATE GOVERNMENT, MARCH 10, 2021

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." As follows:

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

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

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

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

8 (2) The term does not include the use of a record by a
9 nonprofit educational or noncommercial scientific institution
10 for scholarly or scientific research or the use of a record
11 by the news media, a journalist or an author for news
12 gathering or dissemination in a newspaper, periodical, book,
13 digital publication 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) General rule.--A written request for access to records
18 may be submitted in person, by mail, by e-mail, by facsimile or,
19 to the extent provided by agency rules, by any other electronic
20 means. A written request must be addressed to the open-records
21 officer designated pursuant to section 502. Employees of an
22 agency shall be directed to forward requests for records to the
23 open-records officer. A written request should identify or
24 describe the records sought with sufficient specificity to
25 enable the agency to ascertain which records are being requested
26 and shall include the name and address to which the agency
27 should address its response. [A]

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

29 (c), a written request need not include any explanation of the
30 requester's reason for requesting or intended use of the records

1 unless otherwise required by law.

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

9 Section 3. Section 1307 of the act is amended by adding
10 subsections to read:

11 Section 1307. Fee limitations.

12 * * *

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

14 (1) In responding to a request for records that will be
15 used for a commercial purpose, an agency may charge a
16 requester additional standard fees for the search, retrieval,
17 review, redaction and duplication of the records. The fees
18 shall be calculated at no more than the hourly wage of the
19 lowest-paid public employee of the agency who is capable of
20 searching, retrieving, reviewing, redacting or duplicating
21 the information necessary to comply with the request.

22 (2) Prior to granting a commercial request, the agency,
23 upon request, shall provide the requester with an estimate of
24 the fees to be incurred by the agency in fulfilling the
25 request.

26 (3) 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.