



General Assembly

February Session, 2016

Raised Bill No. 5512

LCO No. 2537



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT AUTHORIZING ADDITIONAL FEES FOR MUNICIPAL PUBLIC
RECORDS REQUESTED FOR COMMERCIAL PURPOSES.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2016*) (a) For the purposes of
2 this section: (1) "Commercial purpose" means the direct or indirect use
3 of any part of a public record or records, in any form, for sale, resale,
4 solicitation, rent or lease of a service or any use by which the user
5 expects a profit, either through commission, salary or fee. "Commercial
6 purpose" does not include the publication or related use of a public
7 record by a newspaper or periodical, the use of a public record by a
8 radio or television station in its news or other informational programs
9 or the use of a public record in the preparation for prosecution or
10 defense of litigation or claims settlement by the parties to such action
11 or the attorneys representing such parties; (2) "public record" and
12 "public agency" have the same meanings as provided in section 1-200
13 of the general statutes; and (3) "municipality" has the same meaning as
14 provided in section 4a-60g of the general statutes.

15 (b) The legislative body of any municipality, may, by ordinance,
16 enact a schedule of reasonable fees to be charged by such municipality
17 for any copy of a public record provided in paper or electronic form
18 for commercial purposes. Such fees shall be in addition to the fees
19 authorized in section 1-212 of the general statutes, as amended by this
20 act. In establishing such fees under this subsection, the municipality
21 may consider: (1) The type of information requested; (2) the purpose or
22 purposes for which the information has been requested; (3) the
23 commercial value of the information; (4) the cost to the municipal
24 public agency of time, materials, equipment and personnel in
25 producing a copy; and (5) the cost to the public agency of the creation,
26 purchase, or other acquisition of the public record. Any such fees shall
27 be uniform in application and may not vary based upon the identity of
28 the person making the request. Any such municipality may require
29 any person requesting a public record to certify that the record
30 requested will not be used for commercial purposes. The public agency
31 from which copies of public records are requested may require an
32 affirmation from the requestor stating the commercial purpose for
33 which they shall be used.

34 (c) Any municipality that adopts an ordinance in accordance with
35 subsection (b) of this section shall post a written schedule of the fees at
36 its principal office and with the town clerk, and if applicable, on the
37 Internet web site of the municipality. No municipality may use fees for
38 the purpose of discouraging requests for information or as obstacles to
39 the disclosure of requested information.

40 Sec. 2. Section 1-212 of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective October 1, 2016*):

42 (a) Any person applying in writing shall receive, promptly upon
43 request, a plain, facsimile, electronic or certified copy of any public
44 record. The type of copy provided shall be within the discretion of the
45 public agency, except (1) the agency shall provide a certified copy
46 whenever requested, and (2) if the applicant does not have access to a

47 computer or facsimile machine, the public agency shall not send the
48 applicant an electronic or facsimile copy. The fee for any copy
49 provided in accordance with the Freedom of Information Act:

50 (A) By an executive, administrative or legislative office of the state, a
51 state agency or a department, institution, bureau, board, commission,
52 authority or official of the state, including a committee of, or created
53 by, such an office, agency, department, institution, bureau, board,
54 commission, authority or official, and also including any judicial office,
55 official or body or committee thereof but only in respect to its or their
56 administrative functions, shall not exceed twenty-five cents per page;
57 and

58 (B) [By] Except as provided in section 1 of this act, by all other
59 public agencies, as defined in section 1-200, shall not exceed fifty cents
60 per page. If any copy provided in accordance with said Freedom of
61 Information Act requires a transcription, or if any person applies for a
62 transcription of a public record, the fee for such transcription shall not
63 exceed the cost thereof to the public agency.

64 (b) [The] Except as provided in section 1 of this act, the fee for any
65 copy provided in accordance with subsection (a) of section 1-211 shall
66 not exceed the cost thereof to the public agency. In determining such
67 costs for a copy, other than for a printout which exists at the time that
68 the agency responds to the request for such copy, an agency may
69 include only:

70 (1) An amount equal to the hourly salary attributed to all agency
71 employees engaged in providing the requested computer-stored public
72 record, including their time performing the formatting or
73 programming functions necessary to provide the copy as requested,
74 but not including search or retrieval costs except as provided in
75 subdivision (4) of this subsection;

76 (2) An amount equal to the cost to the agency of engaging an
77 outside professional electronic copying service to provide such

78 copying services, if such service is necessary to provide the copying as
79 requested;

80 (3) The actual cost of the storage devices or media provided to the
81 person making the request in complying with such request; and

82 (4) The computer time charges incurred by the agency in providing
83 the requested computer-stored public record where another agency or
84 contractor provides the agency with computer storage and retrieval
85 services. Notwithstanding any other provision of this section, the fee
86 for any copy of the names of registered voters shall not exceed three
87 cents per name delivered or the cost thereof to the public agency, as
88 determined pursuant to this subsection, whichever is less. The
89 Department of Administrative Services shall provide guidelines to
90 agencies regarding the calculation of the fees charged for copies of
91 computer-stored public records to ensure that such fees are reasonable
92 and consistent among agencies.

93 (c) A public agency may require the prepayment of any fee required
94 or permitted under the Freedom of Information Act if such fee is
95 estimated to be ten dollars or more. The sales tax provided in chapter
96 219 shall not be imposed upon any transaction for which a fee is
97 required or permissible under this section or section 1-227.

98 (d) The public agency shall waive any fee provided for in this
99 section when:

100 (1) The person requesting the records is an indigent individual;

101 (2) The records located are determined by the public agency to be
102 exempt from disclosure under subsection (b) of section 1-210;

103 (3) In its judgment, compliance with the applicant's request benefits
104 the general welfare;

105 (4) The person requesting the record is an elected official of a
106 political subdivision of the state and the official (A) obtains the record

107 from an agency of the political subdivision in which the official serves,
108 and (B) certifies that the record pertains to the official's duties; or

109 (5) The person requesting the records is a member of the Division of
110 Public Defender Services or an attorney appointed by the court as a
111 Division of Public Defender Services assigned counsel under section
112 51-296 and such member or attorney certifies that the record pertains
113 to the member's or attorney's duties.

114 (e) Except as otherwise provided by law, the fee for any person who
115 has the custody of any public records or files for certifying any copy of
116 such records or files, or certifying to any fact appearing therefrom,
117 shall be for the first page of such certificate, or copy and certificate, one
118 dollar; and for each additional page, fifty cents. For the purpose of
119 computing such fee, such copy and certificate shall be deemed to be
120 one continuous instrument.

121 (f) The Secretary of the State, after consulting with the chairperson
122 of the Freedom of Information Commission, the Commissioner of
123 Correction and a representative of the Judicial Department, shall
124 propose a fee structure for copies of public records provided to an
125 inmate, as defined in section 18-84, in accordance with subsection (a) of
126 this section. The Secretary of the State shall submit such proposed fee
127 structure to the joint standing committee of the General Assembly
128 having cognizance of matters relating to government administration,
129 not later than January 15, 2000.

130 (g) Any individual may copy a public record through the use of a
131 hand-held scanner. [A] Except as provided in section 1 of this act, a
132 public agency may establish a fee structure not to exceed twenty
133 dollars for an individual to pay each time the individual copies records
134 at the agency with a hand-held scanner. As used in this section, "hand-
135 held scanner" means a battery operated electronic scanning device the
136 use of which (1) leaves no mark or impression on the public record,
137 and (2) does not unreasonably interfere with the operation of the

138 public agency.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2016</i> | New section |
| Sec. 2 | <i>October 1, 2016</i> | 1-212 |

Statement of Purpose:

To authorize municipalities to charge additional fees for public records requested for commercial purposes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]