



2013 ASSEMBLY BILL 592

December 23, 2013 – Introduced by Representatives RIPP, HEBL, BALLWEG, BERCEAU, BERNIER, BEWLEY, BILLINGS, BORN, CZAJA, DOYLE, HINTZ, JACQUE, KESTELL, T. LARSON, LOUDENBECK, MILROY, MURSAU, NASS, OHNSTAD, A. OTT, PRIDEMORE, SMITH, SWEARINGEN, VRUWINK and GENRICH, cosponsored by Senators OLSEN, GUDEX, HANSEN, HARS DORF, LASSA, MILLER and WIRCH. Referred to Committee on Consumer Protection.

1 **AN ACT** *to create* 100.313 of the statutes; **relating to:** solicitation of a fee by a
2 business or individual for a public record, granting rule-making authority, and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Currently an individual may request a copy of a public record from a state agency or local unit of government and, upon the payment of a fee for the cost of producing a copy of the public record, receive a copy of that record. In many cases there is no fee or a small fee for receiving a copy of a public record.

The bill requires any document used by a business or individual to make a solicitation of a fee to provide a copy of a public record to state, in at least 24-point type, that the solicitation is not from a governmental agency, that no action is legally required by the person being solicited, the contact information for the governmental office that has custody of the public record and fee for, or cost of, obtaining the public record from that office, and the solicitor's name.

The bill specifies that the solicitation document may not be in a form that makes it appear to be from a governmental agency or to impose a legal duty upon the solicited person. The bill prohibits the solicitor from charging more than four times the amount charged by the governmental office that has custody of the public record.

The bill also requires a solicitor to furnish the register of deeds of each county where a solicitation is to be made for a copy of a deed with a copy of the solicitation document at least 15 days before the solicitation is distributed. In addition, the bill gives DATCP authority or, at the request of DATCP, the department of justice or a

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district attorney authority to bring an action against any person who violates the provisions of this bill, allows the court to order refunds of moneys paid to a violator, and creates a forfeiture of up to \$100 for each solicitation document distributed in violation of the bill's provisions.

The bill does not apply to a title insurance company authorized to do business in this state.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 100.313 of the statutes is created to read:

2 **100.313 Solicitation of a fee for providing a public record.** (1) In this
3 section:

4 (a) "Local unit of government" means a political subdivision of this state, a
5 special purpose district in this state, an instrumentality or corporation of such a
6 political subdivision or special purpose district, or a combination or subunit of any
7 of the foregoing.

8 (b) "Record" means any material on which written, drawn, printed, spoken,
9 visual, or electromagnetic information is recorded or preserved, regardless of
10 physical form or characteristics, which has been created or is being kept by a local
11 unit of government or a state agency.

12 (c) "Solicit" means advertise or market to a person with whom the solicitor has
13 no preexisting business relationship.

14 (d) "State agency" means any office, department, or independent agency in the
15 executive branch of Wisconsin state government, the legislature, and the courts.

16 **(2)** A business or individual soliciting a fee for providing a copy of a record shall
17 state on the top of the document used for the solicitation, in at least 24-point type,
18 all of the following:

19 (a) That the solicitation is not from a state agency or local unit of government.

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1 (b) That no action is legally required by the person being solicited.

2 (c) The fee for, or the cost of, obtaining a copy of the record from the state agency
3 or local unit of government that has custody of the record.

4 (d) The information necessary to contact the state agency or local unit of
5 government that has custody of the record.

6 (e) The name and physical address of the business or individual soliciting the
7 fee.

8 **(4)** The document used for a solicitation under this section may not be in a form
9 or use deadline dates or other language that makes the document appear to be a
10 document issued by a state agency or local unit of government or that appears to
11 impose a legal duty on the person being solicited. The department may promulgate
12 rules specifying the contents and form of the solicitation document.

13 **(5)** A business or individual soliciting a fee for providing a copy of a record may
14 not charge a fee of more than 4 times the amount charged by the state agency or local
15 unit of government that has custody of the record for a copy of the same record.

16 **(6)** A business or individual soliciting a fee from property owners for providing
17 a copy of a deed shall furnish the office of the register of deeds of each county where
18 the solicitations are to be distributed with a copy of the document that will be used
19 for those solicitations not less than 15 days before distributing the solicitations.

20 **(7)** The department may investigate violations of this section. The department
21 may bring an action or request that the department of justice or a district attorney
22 bring an action against any person who violates this section. The court may order
23 the person who violates this section to refund all of the moneys paid to the violator
24 and to forfeit, for a first violation, not more than \$100 for each solicitation document

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SECTION 1

1 distributed in violation of this section, and not more than \$200 for each solicitation
2 document distributed in violation of this section subsequent to the first violation.

3 (8) This section does not apply to a title insurance company authorized to do
4 business in this state or its authorized agent.

5 (END)