

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Public records act revisions.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to public records; revising documents that
2 constitute official public records; establishing procedures
3 related to public records requested for commercial
4 purposes; revising the time periods for acknowledgement of
5 public records requests and release of public records;
6 providing for an extension of time to release public
7 records; clarifying when inspection of public records can
8 be denied; clarifying powers of the public records
9 ombudsman; specifying fees for public records; providing
10 penalties; specifying applicability; and providing for an
11 effective date.

12

1 *Be It Enacted by the Legislature of the State of Wyoming:*

2

3 **Section 1.** W.S. 16-4-201(a)(vi)(A) and by creating a
4 new paragraph (xv), 16-4-202(a), (c)(ii) through (v) and by
5 creating a new subsection (f), 16-4-203(a) by creating a
6 new paragraph (iv), (d)(v), (f)(intro)(ii)(C) and by
7 creating a new subparagraph (D), 16-4-204(e) and 16-4-205
8 are amended to read:

9

10 **16-4-201. Definitions; short title; designation of**
11 **ombudsman.**

12

13 (a) As used in this act:

14

15 (vi) Public records shall be classified as
16 follows:

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18 (A) "Official public records" includes all
19 original vouchers, receipts and other documents necessary
20 to isolate and prove the validity of every transaction
21 relating to the receipt, use and disposition of all public
22 property and public income from all sources whatsoever; all
23 agreements and contracts to which a governmental entity is

1 a party; all fidelity, surety and performance bonds; all
2 claims filed against a governmental entity; plea agreements
3 and nonconfidential portions of sentencing memoranda; all
4 records or documents required by law to be filed with or
5 kept by a governmental entity of Wyoming; and all other
6 documents or records determined by the records committee to
7 be official public records;

8
9 (xv) "Commercial purpose":

10
11 (A) Means the use of a public record for
12 any of the following purposes:

13
14 (I) Offering the public record for
15 sale or resale;

16
17 (II) Producing a document containing
18 all or part of the public record that is or will be offered
19 for sale;

20
21 (III) Obtaining names, addresses or
22 other contact information from public records that is used
23 for solicitation or that is offered for sale to another for

1 the purpose of solicitation or for any purpose in which the
2 purchaser of the information can reasonably anticipate the
3 receipt of monetary gain from the direct or indirect use of
4 the information gathered from public records.

5
6 (B) Shall not include:

7
8 (I) Public records used for the
9 dissemination of news or current events by a person or
10 agency who is in the business of the public dissemination
11 of news or current events;

12
13 (II) The use of a public record as
14 evidence or as research for evidence in an action in any
15 judicial or quasi-judicial body.

16
17 **16-4-202. Right of inspection; rules and regulations;**
18 **unavailability; training.**

19
20 (a) All public records shall be open for inspection
21 by any person at reasonable times, during business hours of
22 the governmental entity, except as provided in this act or
23 as otherwise provided by law, but the governmental entity

1 may make rules and regulations with reference to the
2 inspection of the records as is reasonably necessary for
3 the protection of the records and the prevention of
4 unnecessary interference with the regular discharge of the
5 duties of the governmental entity. All applications for
6 public records shall be made to the designated public
7 records person and shall indicate whether the request is
8 made for a commercial purpose. Except as otherwise provided
9 in this subsection, the governmental entity shall
10 acknowledge receipt of the request to the person making the
11 request not later than three (3) business days after
12 receipt of the request. If the public records are requested
13 for a commercial purpose, the request shall be made as
14 provided in subsection (f) of this section and the
15 governmental entity shall acknowledge the request not later
16 than ten (10) business days after receipt of the request.

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18 (c) If the public records requested are in the
19 custody and control of the governmental entity to whom
20 application is made, the following shall apply:

21

22 (ii) If a public record is readily available and
23 the request is not made for a commercial purpose, it shall

1 be released immediately to the applicant when the request
2 is acknowledged so long as the release does not impair or
3 impede the governmental entity's ability to discharge its
4 other duties;

5
6 (iii) All public records that are not requested
7 for a commercial purpose and that cannot be released within
8 the period specified in paragraph (ii) of this subsection
9 shall be released not later than ~~thirty (30)~~ ten (10)
10 calendar days from the date of acknowledged receipt of the
11 request unless ~~good cause exists preventing release~~ the
12 government entity requests an extension from the ombudsman
13 as authorized by paragraph (iv) of this subsection. A
14 public record that is requested for a commercial purpose
15 shall be released not later than thirty (30) calendar days
16 from the acknowledged receipt of the request except as
17 provided in subsection (f) of this section;

18
19 (iv) Upon request by a government entity, the
20 ombudsman may authorize an extension to release public
21 records if good cause exists preventing release within the
22 time period specified in paragraph (ii) and (iii) of this
23 subsection. 7 If an extension is granted, the public records

1 shall be released on a date specified by the ombudsman,
2 which shall not exceed an additional thirty (30) calendar
3 days, or another specified date if mutually agreed to by
4 the applicant and the governmental entity~~;~~~~. If a release~~
5 ~~date cannot be agreed upon, the applicant may file a~~
6 ~~complaint with the ombudsman as provided by paragraph (v)~~
7 ~~of this subsection;~~

8
9 (v) The applicant may at any time file a
10 complaint with an ombudsman designated by the governor or
11 may petition the district court for a determination as to
12 whether the custodian has demonstrated good cause. In
13 determining whether good cause existed, the ombudsman or
14 district court may consider whether the records are
15 privileged or confidential by law, ~~or~~ whether release of
16 the records impairs or impedes the governmental entity's
17 ability to discharge its other duties or whether the
18 request constitutes a nuisance request as shown by
19 voluminous, broad or recurring requests that substantially
20 disrupt government operations. The ombudsman or the
21 district court shall review the records in camera and
22 determine whether redaction of privileged or confidential
23 information would permit release of the records.

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2 (f) The following shall apply to requests of public
3 records for a commercial purpose:

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5 (i) No person shall use a public record
6 requested under this act for a commercial purpose unless
7 the person provides a statement with the request detailing
8 how the public record will be used for commercial purposes;

9

10 (ii) Before releasing a public record that is
11 requested for a commercial purpose, in addition to the fees
12 authorized under W.S. 16-4-204, the custodian shall charge
13 a fee based on the value of the public record on the
14 commercial market, as best determined by the applicable
15 governmental entity;

16

17 (iii) If the custodian determines that the
18 commercial purpose provided in the statement is a misuse of
19 public records or is an abuse of the right to receive
20 public records, the custodian may apply to the district
21 court for an order permitting the custodian to restrict
22 disclosure of the public record. After a hearing, the court
23 may issue an order upon a finding that the commercial

purpose provided in the statement is a misuse of public records or is an abuse of the right to receive public records. The person requesting the record shall have notice of the hearing served upon him in the manner provided for service of process by the Wyoming Rules of Civil Procedure and has the right to appear and be heard. If the custodian has not applied to the district court under this paragraph within thirty (30) calendar days from the acknowledged receipt of the request, the public record shall be provided, subject to the other requirements of this subsection;

STAFF COMMENT
Along with other portions of the bill draft, this subsection based on the Arizona law on this topic as requested by the Committee, but this subsection was revised to substitute the District Court for the Governor to make the process more consistent with paragraph (c)(v), above, as well as with W.S. 16-4-403(g), which is included below for Committee discussion.

(iv) Any person who requests a public record for commercial purposes in violation of this subsection shall, in addition to any other applicable penalties, be liable to the applicable governmental entity for damages as follows:

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(A) Damages equal to three (3) times the amount that would have been charged for the public records under paragraph (ii) of this subsection, plus costs and reasonable attorney fees; or

(B) If the governmental entity can show that the public record would not have been provided if the commercial purpose had been stated at the time of the request, damages equal to three (3) times the actual damages, plus costs and reasonable attorney fees.

16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exceptions.

(a) The custodian of any public records shall allow any person the right of inspection of the records or any portion thereof except on one (1) or more of the following grounds or as provided in subsection (b) or (d) of this section:

1 (iv) The request is denied pursuant to W.S. 16-
2 4-202(c)(v) or W.S. 16-4-202(f)(iii).

3

4 (d) The custodian shall deny the right of inspection
5 of the following records, unless otherwise provided by law:

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7 (v) Except as otherwise provided in this
8 paragraph, trade secrets, privileged information and
9 confidential commercial, financial, geological or
10 geophysical data furnished by or obtained from any person.
11 For any contract entered into by a governmental entity on
12 or after July 1, 2027, if information that would be subject
13 to denial under this paragraph is included in a contract
14 and the contract is otherwise a public record under this
15 act, the right to inspect the contract shall not be denied
16 under this paragraph and the contract shall not be redacted
17 to exclude any information under this paragraph that is
18 included in the contract;

19

20 (f) Any person aggrieved by the failure of a
21 governmental entity to release records on the ~~specified~~
22 date ~~mutually agreed upon~~ determined pursuant to W.S. 16-4-
23 202(c)(iv) or by the failure of a governmental entity to

1 comply with an order of the ombudsman pursuant to W.S. 16-
2 4-202(c)(v) may:

3

4 (ii) File a complaint with the ombudsman who
5 may:

6

7 (C) Waive any portion of or all fees
8 charged by the governmental entity.

9

10 (D) Refer the matter to the attorney
11 general or district attorney, who may apply to the Wyoming
12 district court to enforce compliance with this act.

13

14 (g) If, in the opinion of the official custodian of
15 any public record, disclosure of the contents of the record
16 would do substantial injury to the public interest,
17 notwithstanding the fact that the record might otherwise be
18 available to public inspection, he may apply to the
19 district court of the district in which the record is
20 located for an order permitting him to restrict disclosure.
21 After hearing, the court may issue an order upon a finding
22 that disclosure would cause substantial injury to the
23 public interest. The person seeking permission to examine

1 the record shall have notice of the hearing served upon him
2 in the manner provided for service of process by the
3 Wyoming Rules of Civil Procedure and has the right to
4 appear and be heard.

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6 *****
7 *****
8 STAFF COMMENT
9 The language above is not amended but is included for
10 Committee discussion as noted in the previous staff
11 comment.
12 *****
13 *****
14

15 16-4-204. Right of inspection; copies, printouts or
16 photographs; fees.

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18 (e) The department of administration and information
19 shall adopt uniform rules for the use of state agencies
20 establishing procedures, fees, costs and charges for
21 inspection, copies and production of public records under
22 W.S. 16-4-202(d)(i), 16-4-203(h)(i) and 16-4-204. Any
23 governmental entity that is not a state agency shall use
24 the uniform fees, costs and charges for inspection, copies
25 and production of public records established by the
26 department of administration and information under this
27 subsection except for the following exceptions:

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2 (i) The governmental entity charges lower fees,
3 costs or charges; or

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5 (ii) Upon approval from the ombudsman, for good
6 cause shown, of a request by the governmental entity to
7 charge higher fees, costs or charges.

8

9 **16-4-205. Penalties; remedies.**

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11 Any person who knowingly or intentionally violates the
12 provisions of this act is liable for a penalty not to
13 exceed ~~seven hundred fifty dollars (\$750.00)~~ two thousand
14 dollars (\$2,000.00). The penalty may be recovered in a
15 civil action and damages may be assessed by the court. The
16 court may award the prevailing applicant reasonable
17 attorney fees.

18

19 **Section 2.** This act shall apply to public records
20 requests submitted on or after July 1, 2027.

21

22 **Section 3.** This act is effective July 1, 2027.

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(END)