

5760

2009-2010 Regular Sessions

I N A S S E M B L Y

February 19, 2009

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to the disposal of certain information or data maintained by agencies of government

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 86 of the public officers law is amended by adding
2 three new subdivisions 6, 7 and 8 to read as follows:

3 6. "DATA BASE" MEANS A SET OF DATA, CONSISTING OF MORE THAN ONE DATA
4 FILE, THAT IS COLLECTED AND STORED FOR A GIVEN PURPOSE.

5 7. "DATA FILE" MEANS AN ELECTRONIC RECORD CONSISTING OF RELATED NUMER-
6 IC, TEXTUAL OR GRAPHIC INFORMATION THAT IS ORGANIZED IN A STRICTLY
7 PRESCRIBED FORM AND FORMAT.

8 8. "ELECTRONIC RECORD" MEANS ANY RECORD THAT IS STORED, PROCESSED AND
9 USED BY MEANS OF A COMPUTER.

10 S 2. Subparagraph iii of paragraph (b) of subdivision 1 of section 87
11 of the public officers law, as amended by chapter 223 of the laws of
12 2008, is amended to read as follows:

13 iii. the fees for copies of records which shall not exceed twenty-five
14 cents per photocopy not in excess of nine inches by fourteen inches, or
15 the actual cost of reproducing any other record in accordance with the
16 provisions of paragraph (c) of this subdivision, except when a different
17 fee is otherwise prescribed by statute. WITH RESPECT TO AN ELECTRONIC
18 RECORD, THE ACTUAL COST OF REPRODUCTION SHALL INCLUDE THE COST OF THE
19 STAFF TIME AND COMPUTER TIME REQUIRED FOR REPRODUCTION AND THE COST OF
20 THE STORAGE DEVICE OR MEDIUM BY WHICH SUCH RECORD IS TRANSMITTED TO THE
21 PERSON WHO HAS REQUESTED IT, WHERE SUCH STORAGE DEVICE OR MEDIUM IS
22 PROVIDED BY THE AGENCY, PROVIDED HOWEVER THAT SUCH ACTUAL COST OF
23 REPRODUCTION WITH RESPECT TO AN ELECTRONIC RECORD SHALL NOT BE GREATER
24 THAN THE ACTUAL COST WOULD BE IF THE RECORDS WERE TRANSMITTED BY THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 AGENCY AS PHOTOCOPIES, PLUS THE COST OF SUCH STORAGE DEVICE OR MEDIUM IF
2 PROVIDED BY THE AGENCY.

3 S 3. Subdivision 1 of section 87 of the public officers law is amended
4 by adding a new paragraph (d) to read as follows:

5 (D) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVI-
6 SION, ANY AGENCY MAY, PURSUANT TO RULE DULY PROMULGATED BY SUCH AGENCY
7 OR BY THE GOVERNING BODY OF THE PUBLIC CORPORATION OF WHICH SUCH AGENCY
8 IS PART, PROVIDE FOR THE PUBLIC SALE, LEASE OR OTHER DISPOSITION OF THE
9 INFORMATION OR DATA MAINTAINED BY SUCH AGENCY IN A DATA BASE. SUCH
10 SALE, LEASE OR OTHER DISPOSITION SHALL BE MADE ON THE BASIS OF A PRICE
11 OR SCHEDULE OF PRICES, SET FORTH IN SUCH RULE, AT WHICH ANY PERSON OR
12 ENTITY MAY ACQUIRE SUCH INFORMATION OR DATA. ALL MONEYS RECEIVED BY AN
13 AGENCY PURSUANT TO THIS SUBDIVISION SHALL BE DEPOSITED IN THE GENERAL
14 FUND OF THE PUBLIC CORPORATION OF WHICH THE AGENCY IS PART.

15 S 4. This act shall take effect immediately.