

# HOUSE BILL No. 5214

July 16, 2009, Introduced by Reps. Geiss, Bledsoe, Young, Durhal, LeBlanc, Tlaib and Meadows and referred to the Committee on Intergovernmental and Regional Affairs.

A bill to amend 1976 PA 442, entitled  
"Freedom of information act,"  
by amending section 2 (MCL 15.232), as amended by 1996 PA 553.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. As used in this act:

2       (a) "Field name" means the label or identification of an  
3       element of a computer data base that contains a specific item of  
4       information, and includes but is not limited to a subject heading  
5       such as a column header, data dictionary, or record layout.

6       (b) "FOIA coordinator" means either of the following:

7       (i) An individual who is a public body.

8       (ii) An individual designated by a public body in accordance  
9       with section 6 to accept and process requests for public records

1 under this act.

2 (c) "Person" means an individual, corporation, limited  
3 liability company, partnership, firm, organization, association,  
4 governmental entity, or other legal entity. Person does not include  
5 an individual serving a sentence of imprisonment in a state or  
6 county correctional facility in this state or any other state, or  
7 in a federal correctional facility.

8 (d) "Public body" means any of the following:

9 (i) A state officer, employee, agency, department, division,  
10 bureau, board, commission, council, authority, or other body in the  
11 executive branch of the state government, but does not include the  
12 governor or lieutenant governor, the executive office of the  
13 governor or lieutenant governor, or employees thereof.

14 (ii) An agency, board, commission, or council in the  
15 legislative branch of the state government.

16 (iii) A county, city, township, village, intercounty, intercity,  
17 or regional governing body, council, school district, special  
18 district, or municipal corporation, or a board, department,  
19 commission, council, or agency thereof, **AND INCLUDES ANY PENSION**  
20 **BOARD, PENSION ADVISORY BOARD, OR OTHER BOARD OF A PUBLIC EMPLOYEE**  
21 **RETIREMENT SYSTEM CREATED AND ESTABLISHED BY THIS STATE OR ANY**  
22 **POLITICAL SUBDIVISION OF THIS STATE.**

23 (iv) Any other body ~~which~~ **THAT** is created by state or local  
24 authority or ~~which~~ **THAT** is primarily funded by or through state or  
25 local authority.

26 (v) The judiciary, including the office of the county clerk  
27 and employees thereof when acting in the capacity of clerk to the

1 circuit court, is not included in the definition of public body.

2 (e) "Public record" means a writing prepared, owned, used, in  
3 the possession of, or retained by a public body in the performance  
4 of an official function, from the time it is created. Public record  
5 does not include computer software. This act separates public  
6 records into the following 2 classes:

7 (i) Those that are exempt from disclosure under section 13.

8 (ii) All public records that are not exempt from disclosure  
9 under section 13 and ~~which~~ **THAT** are subject to disclosure under  
10 this act.

11 (f) "Software" means a set of statements or instructions that  
12 when incorporated in a machine usable medium is capable of causing  
13 a machine or device having information processing capabilities to  
14 indicate, perform, or achieve a particular function, task, or  
15 result. Software does not include computer-stored information or  
16 data, or a field name if disclosure of that field name does not  
17 violate a software license.

18 (g) "Unusual circumstances" means any 1 or a combination of  
19 the following, but only to the extent necessary for the proper  
20 processing of a request:

21 (i) The need to search for, collect, or appropriately examine  
22 or review a voluminous amount of separate and distinct public  
23 records pursuant to a single request.

24 (ii) The need to collect the requested public records from  
25 numerous field offices, facilities, or other establishments which  
26 are located apart from the particular office receiving or  
27 processing the request.

1           (h) "Writing" means handwriting, typewriting, printing,  
2 photostating, photographing, photocopying, and every other means of  
3 recording, and includes letters, words, pictures, sounds, or  
4 symbols, or combinations thereof, and papers, maps, magnetic or  
5 paper tapes, photographic films or prints, microfilm, microfiche,  
6 magnetic or punched cards, discs, drums, or other means of  
7 recording or retaining meaningful content.

8           (i) "Written request" means a writing that asks for  
9 information, and includes a writing transmitted by facsimile,  
10 electronic mail, or other electronic means.