

SENATE BILL No. 366

June 3, 2015, Introduced by Senators HERTEL, SCHUITMAKER, O'BRIEN, KNEZEK, HOOD, YOUNG, JONES, ANANICH, GREGORY, MARLEAU and SCHMIDT and referred to the Committee on Commerce.

A bill to regulate the solicitation of certain public records; to prescribe the powers and duties of certain state agencies and officials; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "solicitation of public records act".

3 Sec. 2. As used in this act:

4 (a) "Department" means the department of attorney general.

5 (b) "Person" means an individual, partnership, corporation,
6 association, governmental entity, or other legal entity.

7 (c) "Public body" means that term as it is defined in section
8 2 of the freedom of information act, 1976 PA 442, MCL 15.232.

9 (d) "Public record" means that term as it is defined in
10 section 2 of the freedom of information act, 1976 PA 442, MCL

1 15.232.

2 (e) "Rule" means a rule promulgated pursuant to the
3 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
4 24.328.

5 (f) "Solicit" means to advertise or market to a person with
6 whom the solicitor has no preexisting business relationship.

7 Sec. 3. (1) A person soliciting a fee for providing a copy of
8 a public record shall state on the top of the document used for the
9 solicitation, in at least 24-point type, all of the following:

10 (a) That the solicitation is not from a public body.

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

13 (c) The fee for, or the cost of, obtaining a copy of the
14 public record from the public body that has custody of the record.

15 (d) The information necessary to contact the public body that
16 has custody of the record.

17 (e) The name and physical address of the person soliciting the
18 fee.

19 (2) The document used for a solicitation under this section
20 shall not be in a form or use deadline dates or other language that
21 makes the document appear to be a document issued by a public body
22 or that appears to impose a legal duty on the person being
23 solicited. The department may promulgate rules specifying the
24 contents and form of the solicitation document.

25 (3) A person soliciting a fee for providing a copy of a public
26 record shall not charge a fee of more than 4 times the amount
27 charged by the public body that has custody of the record for a

1 copy of that record.

2 (4) A person soliciting a fee from property owners for
3 providing a copy of a deed shall furnish the office of the register
4 of deeds of each county where the solicitations are to be
5 distributed with a copy of the document that will be used for those
6 solicitations not less than 15 days before distributing the
7 solicitations.

8 Sec. 4. This act does not apply to a title insurance company
9 authorized to do business in this state or its authorized agent.

10 Sec. 5. The department may investigate violations of this act.
11 The department may bring an action or request a county prosecutor
12 to bring an action against any person that violates this act. The
13 court may order a person that violates this act to refund all of
14 the money paid to the violator with respect to the solicitation and
15 to forfeit, for a first violation, not more than \$100.00 for each
16 solicitation document distributed in violation of this act, and not
17 more than \$200.00 for each solicitation document distributed in
18 violation of this act subsequent to the first violation.

19 Enacting section 1. This act takes effect 90 days after the
20 date it is enacted into law.