



MEMO IN SUPPORT

S1506 (Hoylman) / A6895 (Englebright)

Limits Commercial FOIL Exemption

February 17, 2022

TITLE OF BILL

An act to amend the public officers law, in relation to requiring entities that submit records to state agencies that are excepted from disclosure under the freedom of information law to periodically re-apply for the exception.

SUMMARY OF PROVISIONS

Section 1 amends Public Officers Law Section 89(5)(a)(2)(i) to require that when companies submitting records to the government apply for an exemption from FOIL disclosure, they specify which portions of the records should be exempt and for how long (but not longer than three years). It also adds a (ii) which provides that companies must reapply for the exemption not less than 60 days before it ends, and that the requested exemption period may not last for longer than three years. The rest of the section makes technical amendments to conform to these changes.

Section 2 states that the bill takes effect immediately.

STATEMENT OF SUPPORT

Our groups support this bill because businesses, vendors and other third parties should not be able to permanently exempt records submitted to the government from disclosure.

Currently, when submitting records to a government agency in New York, a business can apply for a blanket, indefinite exemption for disclosure of those records. In other words, the business can keep what should be public records from ever being released via a Freedom of Information request. This bill will require applicants to identify which *portions* of records should be exempt and periodically reapply for the exemption.

We believe that placing limits on businesses and vendors' ability to exempt these records is crucial for improving transparency in New York State. New Yorkers should be able to see how much their state government is paying for goods and services. Removing the permanent exemption will ensure greater public access to information about government spending and the costs of services from private contractors.

This bill has been supported by the Committee on Open Government [since at least 2012](#). It was also [part of a 2019 executive budget proposal](#) that was eventually split into two. The first part, which allows for appeals regarding denials of exemptions to be given preference in court, [was passed and signed in 2019](#).

It's time to finish the job. We urge the Legislature to pass this bill.