



MEMO OF SUPPORT

S1726 (Harckham) / A5613 (Zebrowski)

Clarifies NYS Freedom of Information Law

August 21, 2023

TITLE OF BILL

Relates to accessing records under the freedom of information law including notification procedures and the release of names of natural persons and residential addresses.

SUMMARY OF PROVISIONS

Section 1 of the bill clarifies that lists of natural persons and their residential addresses cannot be disclosed under the Freedom of Information Law (FOIL) for marketing or fundraising purposes because it is an unwarranted invasion of personal privacy. However, lists of vendors or persons acting in their professional or business capacity can be disclosed to a requestor seeking a record which may contain this information provided other exemptions to FOIL are not applicable.

Section 1 also makes minor technical changes to the language specifying how agencies should respond to FOIL requests when they have not yet made a determination on providing the requested record. Language is also provided to make clearer that agencies do not need to create new records in response to a FOIL request and that retrieving existing records and data and transferring data to a medium to be read by the requester is not considered the creation of a new record.

Section 2 of the bill states the changes to the law will go into effect immediately.

STATEMENT OF SUPPORT

Our groups support this legislation because it makes necessary changes to the law clarifying how agencies should administer the Freedom of Information Law. Most notably, the bill clarifies that while lists of natural persons and their addresses cannot be disclosed to requestors if they intend to use them for marketing or fundraising, lists of companies or vendors or persons acting in a professional capacity may be disclosed to a requestor seeking information containing these lists.

The Committee on Open Government (COOG) has recommended this legislation be passed. COOG has previously issued opinions to the court in cases involving the disclosure of lists of commercial entities and the court has agreed with their interpretation on multiple occasions that the law requires disclosure of lists of commercial entities and persons.

We support S1726 and A5613. We urge the Assembly and Senate to pass this clarifying legislation, and the Governor to sign it.