

Date of enactment: **April 8, 2014**

2013 Assembly Bill 592 Date of publication*: **April 9, 2014**

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

2013 WISCONSIN ACT 247

AN ACT to create 100.313 of the statutes; **relating to:** solicitation of a fee by a business or individual for a public record, granting rule-making authority, and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.313 of the statutes is created to read:

100.313Solicitation of a fee for providing a public record.(1) In this section:

(a) "Local unit of government" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

(b) "Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by a local unit of government or a state agency.

(c) "Solicit" means to directly advertise or market through writing or graphics and via mail, telefax, or electronic mail to an individually identified person, residence, or business location. "Solicit" does not include any of the following:

1. Communicating through a mass advertisement, including a catalog, a radio or television broadcast, or a website.
2. Communicating via telephone, mail, or electronic communication, if initiated by the consumer.
3. Advertising and marketing to those with whom the solicitor has a preexisting business relationship.

(d) "State agency" means any office, department, or independent agency in the executive branch of Wisconsin state government, the legislature, and the courts.

(2) A business or individual soliciting a fee for providing a copy of a record shall state on the top of the document used for the solicitation, in at least 24-point type, all of the following:

(a) That the solicitation is not from a state agency or local unit of government.

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

(c) The fee for, or the cost of, obtaining a copy of the record from the state agency or local unit of government that has custody of the record.

(d) The information necessary to contact the state agency or local unit of government that has custody of the record.

(e) The name and physical address of the business or individual soliciting the fee.

(4) The document used for a solicitation under this section may not be in a form or use deadline dates or other language that makes the document appear to be a document issued by a state agency or local unit of government or that appears to impose a legal duty on the person being solicited. The department may promulgate rules specifying the contents and form of the solicitation document.

(5) A business or individual soliciting a fee for providing a copy of a record may not charge a fee of more than 4 times the amount charged by the state agency or local unit of government that has custody of the record for a copy of the same record.

(6) A business or individual soliciting a fee from property owners for providing a copy of a deed shall furnish the office of the register of deeds of each county where the solicitations are to be

distributed with a copy of the document that will be used for those solicitations not less than 15 days before distributing the solicitations.

(7) The department may investigate violations of this section. The department may bring an action or request that the department of justice or a district attorney bring an action against any person who violates this section. The court may order the person who violates this section to refund all of the moneys paid to the violator and to forfeit, for a first violation, not more than \$100 for each solicitation document distributed in violation of this section, and not more than \$200 for each solicitation document distributed in violation of this section subsequent to the first violation.

(8) This section does not apply to a title insurance company authorized to do business in this state or its authorized agent.

For more information or to file a consumer complaint, visit datcp.wi.gov, send an e-mail to datcph hotline@wisconsin.gov or call the Consumer Information Hotline toll-free at 1-800-422-7128.