



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5143

Introduced 1/29/2010, by Rep. Michael G. Connelly

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/7

from Ch. 116, par. 207

Amends the Freedom of Information Act. With respect to the exemption from disclosure for personal information, includes files and information relating to specified categories of service recipients, registrants and licensees, and program participants. Effective July 1, 2010.

LRB096 17561 JAM 32918 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Freedom of Information Act is amended by  
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 (Text of Section before amendment by P.A. 96-736)

8 Sec. 7. Exemptions.

9 (1) When a request is made to inspect or copy a public  
10 record that contains information that is exempt from disclosure  
11 under this Section, but also contains information that is not  
12 exempt from disclosure, the public body may elect to redact the  
13 information that is exempt. The public body shall make the  
14 remaining information available for inspection and copying.  
15 Subject to this requirement, the following shall be exempt from  
16 inspection and copying:

17 (a) Information specifically prohibited from  
18 disclosure by federal or State law or rules and regulations  
19 implementing federal or State law.

20 (b) Private information, unless disclosure is required  
21 by another provision of this Act, a State or federal law or  
22 a court order.

23 (b-5) Files, documents, and other data or databases

1 maintained by one or more law enforcement agencies and  
2 specifically designed to provide information to one or more  
3 law enforcement agencies regarding the physical or mental  
4 status of one or more individual subjects.

5 (c) Personal information contained within public  
6 records, the disclosure of which would constitute a clearly  
7 unwarranted invasion of personal privacy, unless the  
8 disclosure is consented to in writing by the individual  
9 subjects of the information. "Unwarranted invasion of  
10 personal privacy" means the disclosure of information that  
11 is highly personal or objectionable to a reasonable person  
12 and in which the subject's right to privacy outweighs any  
13 legitimate public interest in obtaining the information.  
14 The disclosure of information that bears on the public  
15 duties of public employees and officials shall not be  
16 considered an invasion of personal privacy. Information  
17 exempted under this paragraph (c) shall include but is not  
18 limited to:

19 (i) Files and personal information maintained with  
20 respect to clients, patients, residents, students, or  
21 other individuals receiving social, medical,  
22 educational, vocational, financial, supervisory, or  
23 custodial care or services directly or indirectly from  
24 federal agencies or public bodies.

25 (ii) Files and personal information maintained  
26 with respect to any applicant, registrant, or licensee

1 by any public body cooperating with or engaged in  
2 professional or occupational registration, licensure,  
3 or discipline.

4 (iii) The names, addresses, or other personal  
5 information of participants and registrants in park  
6 district, forest preserve district, and conservation  
7 district programs.

8 (d) Records in the possession of any public body  
9 created in the course of administrative enforcement  
10 proceedings, and any law enforcement or correctional  
11 agency for law enforcement purposes, but only to the extent  
12 that disclosure would:

13 (i) interfere with pending or actually and  
14 reasonably contemplated law enforcement proceedings  
15 conducted by any law enforcement or correctional  
16 agency that is the recipient of the request;

17 (ii) interfere with active administrative  
18 enforcement proceedings conducted by the public body  
19 that is the recipient of the request;

20 (iii) create a substantial likelihood that a  
21 person will be deprived of a fair trial or an impartial  
22 hearing;

23 (iv) unavoidably disclose the identity of a  
24 confidential source, confidential information  
25 furnished only by the confidential source, or persons  
26 who file complaints with or provide information to

1 administrative, investigative, law enforcement, or  
2 penal agencies; except that the identities of  
3 witnesses to traffic accidents, traffic accident  
4 reports, and rescue reports shall be provided by  
5 agencies of local government, except when disclosure  
6 would interfere with an active criminal investigation  
7 conducted by the agency that is the recipient of the  
8 request;

9 (v) disclose unique or specialized investigative  
10 techniques other than those generally used and known or  
11 disclose internal documents of correctional agencies  
12 related to detection, observation or investigation of  
13 incidents of crime or misconduct, and disclosure would  
14 result in demonstrable harm to the agency or public  
15 body that is the recipient of the request;

16 (vi) endanger the life or physical safety of law  
17 enforcement personnel or any other person; or

18 (vii) obstruct an ongoing criminal investigation  
19 by the agency that is the recipient of the request.

20 (e) Records that relate to or affect the security of  
21 correctional institutions and detention facilities.

22 (f) Preliminary drafts, notes, recommendations,  
23 memoranda and other records in which opinions are  
24 expressed, or policies or actions are formulated, except  
25 that a specific record or relevant portion of a record  
26 shall not be exempt when the record is publicly cited and

1 identified by the head of the public body. The exemption  
2 provided in this paragraph (f) extends to all those records  
3 of officers and agencies of the General Assembly that  
4 pertain to the preparation of legislative documents.

5 (g) Trade secrets and commercial or financial  
6 information obtained from a person or business where the  
7 trade secrets or commercial or financial information are  
8 furnished under a claim that they are proprietary,  
9 privileged or confidential, and that disclosure of the  
10 trade secrets or commercial or financial information would  
11 cause competitive harm to the person or business, and only  
12 insofar as the claim directly applies to the records  
13 requested.

14 The information included under this exemption includes  
15 all ~~(i) All~~ trade secrets and commercial or financial  
16 information obtained by a public body, including a public  
17 pension fund, from a private equity fund or a privately  
18 held company within the investment portfolio of a private  
19 equity fund as a result of either investing or evaluating a  
20 potential investment of public funds in a private equity  
21 fund. The exemption contained in this item does not apply  
22 to the aggregate financial performance information of a  
23 private equity fund, nor to the identity of the fund's  
24 managers or general partners. The exemption contained in  
25 this item does not apply to the identity of a privately  
26 held company within the investment portfolio of a private

1 equity fund, unless the disclosure of the identity of a  
2 privately held company may cause competitive harm.

3 Nothing contained in this paragraph (g) shall be  
4 construed to prevent a person or business from consenting  
5 to disclosure.

6 (h) Proposals and bids for any contract, grant, or  
7 agreement, including information which if it were  
8 disclosed would frustrate procurement or give an advantage  
9 to any person proposing to enter into a contractor  
10 agreement with the body, until an award or final selection  
11 is made. Information prepared by or for the body in  
12 preparation of a bid solicitation shall be exempt until an  
13 award or final selection is made.

14 (i) Valuable formulae, computer geographic systems,  
15 designs, drawings and research data obtained or produced by  
16 any public body when disclosure could reasonably be  
17 expected to produce private gain or public loss. The  
18 exemption for "computer geographic systems" provided in  
19 this paragraph (i) does not extend to requests made by news  
20 media as defined in Section 2 of this Act when the  
21 requested information is not otherwise exempt and the only  
22 purpose of the request is to access and disseminate  
23 information regarding the health, safety, welfare, or  
24 legal rights of the general public.

25 (j) The following information pertaining to  
26 educational matters:

1 (i) test questions, scoring keys and other  
2 examination data used to administer an academic  
3 examination;

4 (ii) information received by a primary or  
5 secondary school, college, or university under its  
6 procedures for the evaluation of faculty members by  
7 their academic peers;

8 (iii) information concerning a school or  
9 university's adjudication of student disciplinary  
10 cases, but only to the extent that disclosure would  
11 unavoidably reveal the identity of the student; and

12 (iv) course materials or research materials used  
13 by faculty members.

14 (k) Architects' plans, engineers' technical  
15 submissions, and other construction related technical  
16 documents for projects not constructed or developed in  
17 whole or in part with public funds and the same for  
18 projects constructed or developed with public funds,  
19 including but not limited to power generating and  
20 distribution stations and other transmission and  
21 distribution facilities, water treatment facilities,  
22 airport facilities, sport stadiums, convention centers,  
23 and all government owned, operated, or occupied buildings,  
24 but only to the extent that disclosure would compromise  
25 security.

26 (1) Minutes of meetings of public bodies closed to the



1 public as provided in the Open Meetings Act until the  
2 public body makes the minutes available to the public under  
3 Section 2.06 of the Open Meetings Act.

4 (m) Communications between a public body and an  
5 attorney or auditor representing the public body that would  
6 not be subject to discovery in litigation, and materials  
7 prepared or compiled by or for a public body in  
8 anticipation of a criminal, civil or administrative  
9 proceeding upon the request of an attorney advising the  
10 public body, and materials prepared or compiled with  
11 respect to internal audits of public bodies.

12 (n) Records relating to a public body's adjudication of  
13 employee grievances or disciplinary cases; however, this  
14 exemption shall not extend to the final outcome of cases in  
15 which discipline is imposed.

16 (o) Administrative or technical information associated  
17 with automated data processing operations, including but  
18 not limited to software, operating protocols, computer  
19 program abstracts, file layouts, source listings, object  
20 modules, load modules, user guides, documentation  
21 pertaining to all logical and physical design of  
22 computerized systems, employee manuals, and any other  
23 information that, if disclosed, would jeopardize the  
24 security of the system or its data or the security of  
25 materials exempt under this Section.

26 (p) Records relating to collective negotiating matters

1 between public bodies and their employees or  
2 representatives, except that any final contract or  
3 agreement shall be subject to inspection and copying.

4 (q) Test questions, scoring keys, and other  
5 examination data used to determine the qualifications of an  
6 applicant for a license or employment.

7 (r) The records, documents, and information relating  
8 to real estate purchase negotiations until those  
9 negotiations have been completed or otherwise terminated.  
10 With regard to a parcel involved in a pending or actually  
11 and reasonably contemplated eminent domain proceeding  
12 under the Eminent Domain Act, records, documents and  
13 information relating to that parcel shall be exempt except  
14 as may be allowed under discovery rules adopted by the  
15 Illinois Supreme Court. The records, documents and  
16 information relating to a real estate sale shall be exempt  
17 until a sale is consummated.

18 (s) Any and all proprietary information and records  
19 related to the operation of an intergovernmental risk  
20 management association or self-insurance pool or jointly  
21 self-administered health and accident cooperative or pool.  
22 Insurance or self insurance (including any  
23 intergovernmental risk management association or self  
24 insurance pool) claims, loss or risk management  
25 information, records, data, advice or communications.

26 (t) Information contained in or related to

1 examination, operating, or condition reports prepared by,  
2 on behalf of, or for the use of a public body responsible  
3 for the regulation or supervision of financial  
4 institutions or insurance companies, unless disclosure is  
5 otherwise required by State law.

6 (u) Information that would disclose or might lead to  
7 the disclosure of secret or confidential information,  
8 codes, algorithms, programs, or private keys intended to be  
9 used to create electronic or digital signatures under the  
10 Electronic Commerce Security Act.

11 (v) Vulnerability assessments, security measures, and  
12 response policies or plans that are designed to identify,  
13 prevent, or respond to potential attacks upon a community's  
14 population or systems, facilities, or installations, the  
15 destruction or contamination of which would constitute a  
16 clear and present danger to the health or safety of the  
17 community, but only to the extent that disclosure could  
18 reasonably be expected to jeopardize the effectiveness of  
19 the measures or the safety of the personnel who implement  
20 them or the public. Information exempt under this item may  
21 include such things as details pertaining to the  
22 mobilization or deployment of personnel or equipment, to  
23 the operation of communication systems or protocols, or to  
24 tactical operations.

25 (w) (Blank).

26 (x) Maps and other records regarding the location or

1 security of generation, transmission, distribution,  
2 storage, gathering, treatment, or switching facilities  
3 owned by a utility, by a power generator, or by the  
4 Illinois Power Agency.

5 (y) Information contained in or related to proposals,  
6 bids, or negotiations related to electric power  
7 procurement under Section 1-75 of the Illinois Power Agency  
8 Act and Section 16-111.5 of the Public Utilities Act that  
9 is determined to be confidential and proprietary by the  
10 Illinois Power Agency or by the Illinois Commerce  
11 Commission.

12 (z) ~~(tt)~~ Information about students exempted from  
13 disclosure under Sections 10-20.38 or 34-18.29 of the  
14 School Code, and information about undergraduate students  
15 enrolled at an institution of higher education exempted  
16 from disclosure under Section 25 of the Illinois Credit  
17 Card Marketing Act of 2009.

18 (2) A public record that is not in the possession of a  
19 public body but is in the possession of a party with whom the  
20 agency has contracted to perform a governmental function on  
21 behalf of the public body, and that directly relates to the  
22 governmental function and is not otherwise exempt under this  
23 Act, shall be considered a public record of the public body,  
24 for purposes of this Act.

25 (3) This Section does not authorize withholding of  
26 information or limit the availability of records to the public,

1 except as stated in this Section or otherwise provided in this  
2 Act.

3 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;  
4 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;  
5 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;  
6 revised 9-25-09.)

7 (Text of Section after amendment by P.A. 96-736)

8 Sec. 7. Exemptions.

9 (1) When a request is made to inspect or copy a public  
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14 remaining information available for inspection and copying.  
15 Subject to this requirement, the following shall be exempt from  
16 inspection and copying:

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18 disclosure by federal or State law or rules and regulations  
19 implementing federal or State law.

20 (b) Private information, unless disclosure is required  
21 by another provision of this Act, a State or federal law or  
22 a court order.

23 (b-5) Files, documents, and other data or databases  
24 maintained by one or more law enforcement agencies and  
25 specifically designed to provide information to one or more

1 law enforcement agencies regarding the physical or mental  
2 status of one or more individual subjects.

3 (c) Personal information contained within public  
4 records, the disclosure of which would constitute a clearly  
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6 disclosure is consented to in writing by the individual  
7 subjects of the information. "Unwarranted invasion of  
8 personal privacy" means the disclosure of information that  
9 is highly personal or objectionable to a reasonable person  
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11 legitimate public interest in obtaining the information.  
12 The disclosure of information that bears on the public  
13 duties of public employees and officials shall not be  
14 considered an invasion of personal privacy. Information  
15 exempted under this paragraph (c) shall include but is not  
16 limited to:

17 (i) Files and personal information maintained with  
18 respect to clients, patients, residents, students, or  
19 other individuals receiving social, medical,  
20 educational, vocational, financial, supervisory, or  
21 custodial care or services directly or indirectly from  
22 federal agencies or public bodies.

23 (ii) Files and personal information maintained  
24 with respect to any applicant, registrant, or licensee  
25 by any public body cooperating with or engaged in  
26 professional or occupational registration, licensure,

1 or discipline.

2 (iii) The names, addresses, or other personal  
3 information of participants and registrants in park  
4 district, forest preserve district, and conservation  
5 district programs.

6 (d) Records in the possession of any public body  
7 created in the course of administrative enforcement  
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19 person will be deprived of a fair trial or an impartial  
20 hearing;

21 (iv) unavoidably disclose the identity of a  
22 confidential source, confidential information  
23 furnished only by the confidential source, or persons  
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7 privileged or confidential, and that disclosure of the  
8 trade secrets or commercial or financial information would  
9 cause competitive harm to the person or business, and only  
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11 requested.

12 The information included under this exemption includes  
13 all ~~(i) All~~ trade secrets and commercial or financial  
14 information obtained by a public body, including a public  
15 pension fund, from a private equity fund or a privately  
16 held company within the investment portfolio of a private  
17 equity fund as a result of either investing or evaluating a  
18 potential investment of public funds in a private equity  
19 fund. The exemption contained in this item does not apply  
20 to the aggregate financial performance information of a  
21 private equity fund, nor to the identity of the fund's  
22 managers or general partners. The exemption contained in  
23 this item does not apply to the identity of a privately  
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25 equity fund, unless the disclosure of the identity of a  
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1           Nothing contained in this paragraph (g) shall be  
2 construed to prevent a person or business from consenting  
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18 distribution stations and other transmission and  
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9 and reasonably contemplated eminent domain proceeding  
10 under the Eminent Domain Act, records, documents and  
11 information relating to that parcel shall be exempt except  
12 as may be allowed under discovery rules adopted by the  
13 Illinois Supreme Court. The records, documents and  
14 information relating to a real estate sale shall be exempt  
15 until a sale is consummated.

16 (s) Any and all proprietary information and records  
17 related to the operation of an intergovernmental risk  
18 management association or self-insurance pool or jointly  
19 self-administered health and accident cooperative or pool.  
20 Insurance or self insurance (including any  
21 intergovernmental risk management association or self  
22 insurance pool) claims, loss or risk management  
23 information, records, data, advice or communications.

24 (t) Information contained in or related to  
25 examination, operating, or condition reports prepared by,  
26 on behalf of, or for the use of a public body responsible

1 for the regulation or supervision of financial  
2 institutions or insurance companies, unless disclosure is  
3 otherwise required by State law.

4 (u) Information that would disclose or might lead to  
5 the disclosure of secret or confidential information,  
6 codes, algorithms, programs, or private keys intended to be  
7 used to create electronic or digital signatures under the  
8 Electronic Commerce Security Act.

9 (v) Vulnerability assessments, security measures, and  
10 response policies or plans that are designed to identify,  
11 prevent, or respond to potential attacks upon a community's  
12 population or systems, facilities, or installations, the  
13 destruction or contamination of which would constitute a  
14 clear and present danger to the health or safety of the  
15 community, but only to the extent that disclosure could  
16 reasonably be expected to jeopardize the effectiveness of  
17 the measures or the safety of the personnel who implement  
18 them or the public. Information exempt under this item may  
19 include such things as details pertaining to the  
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5 procurement under Section 1-75 of the Illinois Power Agency  
6 Act and Section 16-111.5 of the Public Utilities Act that  
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10 (z) ~~(tt)~~ Information about students exempted from  
11 disclosure under Sections 10-20.38 or 34-18.29 of the  
12 School Code, and information about undergraduate students  
13 enrolled at an institution of higher education exempted  
14 from disclosure under Section 25 of the Illinois Credit  
15 Card Marketing Act of 2009.

16 (aa) ~~(tt)~~ Information the disclosure of which is  
17 exempted under the Viatical Settlements Act of 2009.

18 (2) A public record that is not in the possession of a  
19 public body but is in the possession of a party with whom the  
20 agency has contracted to perform a governmental function on  
21 behalf of the public body, and that directly relates to the  
22 governmental function and is not otherwise exempt under this  
23 Act, shall be considered a public record of the public body,  
24 for purposes of this Act.

25 (3) This Section does not authorize withholding of  
26 information or limit the availability of records to the public,

1 except as stated in this Section or otherwise provided in this  
2 Act.

3 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;  
4 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;  
5 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;  
6 96-736, eff. 7-1-10; revised 9-25-09.)

7 Section 95. No acceleration or delay. Where this Act makes  
8 changes in a statute that is represented in this Act by text  
9 that is not yet or no longer in effect (for example, a Section  
10 represented by multiple versions), the use of that text does  
11 not accelerate or delay the taking effect of (i) the changes  
12 made by this Act or (ii) provisions derived from any other  
13 Public Act.

14 Section 99. Effective date. This Act takes effect July 1,  
15 2010.