


MEMORANDUM

DATE	May 3, 2017
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #6(c)(16) – AB 492 (Grayson) Public Records: Department of Consumer Affairs: Solicitation Fees

Background:

This bill would require a business or individual soliciting a fee for providing a copy of a public record to state on the top of the document to be used for solicitation that the solicitation is not from a state or local agency; that no action is legally required by the person being solicited; the fee for, or the cost of, obtaining a copy of the record; and other specified information. The bill would authorize the Attorney General, a district attorney, or a city attorney to bring an action against a person who violates this provision and would authorize the court to order the person in violation to refund all of the moneys paid to the victim. The bill would require the court to impose a civil penalty in an amount of not more than \$100 for each unlawful solicitation document distributed, and not more than \$200 for each subsequent document distributed in violation of this provision.

Location: Assembly Floor

Status: 4/27/17 Read second time, ordered to Assembly Consent Calendar.

Votes: 4/26/2017 Assembly Committee on Appropriations (16-0-1)
 3/21/2017 Assembly Committee on Judiciary (11-0-0)

Action Requested:

No action is required at this time. Staff will continue to watch AB 492 (Grayson) due to its potential impact on the Board's Public Records Act response process.

Attachment A: AB 492 (Grayson) Text

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AB-492 Public records: Department of Consumer Affairs: solicitation fees. (2017-2018)

SECTION 1. *Article 1.5 (commencing with Section 6271) is added to Chapter 3.5 of Division 7 of Title 1 of the Government Code, to read:*

Article 1.5. Public Records: Solicitation Fees

6271. *(a) A business or individual soliciting a fee for providing a copy of a public record shall state on the top of the document used for the solicitation, in at least 24-point type, all of the following:*

- (1) That the solicitation is not from a state or local agency.*
- (2) That no action is legally required by the person being solicited.*
- (3) The fee for, or the cost of, obtaining a copy of the record from the state or local agency that has custody of the record.*
- (4) The information necessary to contact the state or local agency that has custody of the record.*
- (5) The name and physical address of the business or individual soliciting the fee.*

(b) 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 or local agency or that appears to impose a legal duty on the person being solicited.

(c) The Attorney General, a district attorney, or a city attorney may 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 victim. The court shall impose a civil penalty of not more than one hundred dollars (\$100) for each solicitation document distributed in violation of this section, and not more than two hundred dollars (\$200) for each subsequent document distributed in violation of this section. The civil penalty shall be payable to the general fund of whichever governmental entity brought the action to assess the civil penalty.

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

(e) As used in this section, "solicit" means to directly advertise or market through writing or graphics and via mail, telefax, or email 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 an Internet Web site.*
- (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.*