

**Tax Structure Commission  
Application of Public Records Act (PRA)**

**Vermont Constitution, Ch.1 Art. 6. Officers servants of the people**

- That all power being originally inherent in and consequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them.
- Article 6 is not self-executing—i.e. not a private right of action. The General Assembly may select the means of executing the broad principles of the article.

**Public Records Act, 1 V.S.A. ch. 5, subchapter 3, §§ 315-320**

- **1 V.S.A. § 315. Policy**
  - It is the policy of the PRA to provide for free and open examination of records consistent with Chapter I, Article 6 of the Vermont Constitution.
  - Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment.
  - All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer.
  - The PRA is liberally construed. The burden of proof is on the public agency to sustain its action.
- **1 V.S.A. § 316. Access to Records**
  - Any person may inspect or copy any public record of a public agency.
- **1 V.S.A. § 317. Definitions of Public Record; Public Agency**
  - “Public record” means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business.
  - “Public agency” means any agency, board, department, commission, committee, branch, instrumentality, or authority of the State or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the State.
  - Statute may designate records as not being subject to the PRA or not being “public records.”
  - There 253 specific PRA exemptions and other statutory or common law privileges that may be asserted to withhold information in public record or the record itself from public inspection or copying.
- **1 V.S.A. § 318. Procedure for Response**
  - Upon request, the custodian of a public record shall promptly produce the record for inspection or a copy of the record, except for specified reasons.
  - “Promptly” means immediately, with little or no delay, and, unless otherwise provided in this section, not more than three business days from receipt of a request.

- For specified reasons, the response can be extended for no more than 10 business days.
  - A denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a written determination within 5 business days of receipt of the appeal.
  - A public agency may ask a person to clarify a request or narrow the scope of a voluminous request, but the requesting party has no obligation to do so.
  - A State agency shall designate a records officer or shall designate some other person to be accountable for overseeing the processing of public records received by the agency.
- **1 V.S.A. § 319. Enforcement**
    - Any person aggrieved by the denial of a request for public records may appeal to the Civil Division of the Superior Court in the county in which the complainant resides, or has his or her personal place of business, or in which the public records are situated, or in the Civil Division of the Superior Court of Washington County, to enjoin the public agency from withholding agency.
    - Except as to cases the court considers of greater importance, PRA proceedings before the Civil Division of the Superior Court and PRA appeals, take precedence on the docket over all cases and shall be expedited in every way.
- **1 V.S.A. §§ 319 and 320. Costs and Penalties**
    - Except as provided in the second bullet, the court shall assess against the public agency reasonable attorney's fees and other litigation costs reasonably incurred in any PRA case under this section in which the complainant has substantially prevailed.
    - A court may, in its discretion, assess against a public agency reasonable attorney's fees and other litigation costs reasonably incurred in a PRA case in which the complainant has substantially prevailed provided that the public agency, within the time allowed: (A) concedes that a contested record or contested records are public; and (B) provides the record or records to the complainant.
    - A person who willfully destroys, gives away, sells, discards, or damages a public record without having authority to do so shall be fined at least \$50.00 but not more than \$1,000.00 for each offense.