

## Chapter 42.56 RCW Public records act

### [Chapter Listing](#)

### RCW Sections

- [42.56.001](#) Finding, purpose.
- [42.56.010](#) Definitions.
- [42.56.020](#) Short title.
- [42.56.030](#) Construction.
- [42.56.040](#) Duty to publish procedures.
- [42.56.050](#) Invasion of privacy, when.
- [42.56.060](#) Disclaimer of public liability.
- [42.56.070](#) Documents and indexes to be made public.
- [42.56.080](#) Facilities for copying -- Availability of public records.
- [42.56.090](#) Times for inspection and copying.
- [42.56.100](#) Protection of public records -- Public access.
- [42.56.110](#) Destruction of information relating to employee misconduct.
- [42.56.120](#) Charges for copying.
- [42.56.130](#) Other provisions not superseded.
- [42.56.140](#) Public records exemptions accountability committee.
- [42.56.210](#) Certain personal and other records exempt.
- [42.56.230](#) Personal information.
- [42.56.240](#) Investigative, law enforcement, and crime victims.
- [42.56.250](#) Employment and licensing.
- [42.56.260](#) Real estate appraisals.
- [42.56.270](#) Financial, commercial, and proprietary information.
- [42.56.280](#) Preliminary drafts, notes, recommendations, intra-agency memorandums.
- [42.56.290](#) Agency party to controversy.
- [42.56.300](#) Archaeological sites.
- [42.56.310](#) Library records.
- [42.56.320](#) Educational information.
- [42.56.330](#) Public utilities and transportation.
- [42.56.335](#) Public utility districts and municipally owned electrical utilities -- Restrictions on access by law enforcement authorities.
- [42.56.340](#) Timeshare, condominium, etc. owner lists.
- [42.56.350](#) Health professionals.
- [42.56.360](#) Health care.
- [42.56.370](#) Domestic violence program, rape crisis center clients.
- [42.56.380](#) Agriculture and livestock.
- [42.56.390](#) Emergency or transitional housing.
- [42.56.400](#) Insurance and financial institutions.
- [42.56.403](#) Property and casualty insurance statements of actuarial opinion.

- [42.56.410](#) Employment security department records, certain purposes.
- [42.56.420](#) Security.
- [42.56.430](#) Fish and wildlife.
- [42.56.440](#) Veterans' discharge papers -- Exceptions.
- [42.56.450](#) Check cashers and sellers licensing applications.
- [42.56.460](#) Fireworks.
- [42.56.470](#) Correctional industries workers.
- [42.56.480](#) Inactive programs.
- [42.56.510](#) Duty to disclose or withhold information -- Otherwise provided.
- [42.56.520](#) Prompt responses required.
- [42.56.530](#) Review of agency denial.
- [42.56.540](#) Court protection of public records.
- [42.56.550](#) Judicial review of agency actions.
- [42.56.560](#) Application of RCW [42.56.550](#).
- [42.56.570](#) Explanatory pamphlet.
- [42.56.580](#) Public records officers.
- [42.56.590](#) Personal information -- Notice of security breaches.
- [42.56.600](#) Mediation communications.
- [42.56.610](#) Certain information from dairies and feedlots limited -- Rules.
- [42.56.900](#) Purpose -- 2005 c 274 §§ 402-429.
- [42.56.901](#) Part headings not law -- 2005 c 274.
- [42.56.902](#) Effective date -- 2005 c 274.
- [42.56.903](#) Effective date -- 2006 c 209.
- [42.56.904](#) Intent -- 2007 c 391.

**Notes:**

Criminal records privacy: Chapter 10.97 RCW.

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**42.56.001****Finding, purpose.**

The legislature finds that chapter 42.17 RCW contains laws relating to several discrete subjects. Therefore, the purpose of chapter 274, Laws of 2005 is to recodify some of those laws and create a new chapter in the Revised Code of Washington that contains laws pertaining to public records.

[2005 c 274 § 1.]

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**42.56.010****Definitions.**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical

form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

(3) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

[2007 c 197 § 1; 2005 c 274 § 101.]

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#### **42.56.020**

##### **Short title.**

This chapter may be known and cited as the public records act.

[2005 c 274 § 102.]

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#### **42.56.030**

##### **Construction.**

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected. In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern.

[2007 c 197 § 2; 2005 c 274 § 283; 1992 c 139 § 2. Formerly RCW 42.17.251.]

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#### **42.56.040**

##### **Duty to publish procedures.**

(1) Each state agency shall separately state and currently publish in the Washington Administrative Code and each local agency shall prominently display and make available for inspection and copying at the central office of such local agency, for guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain copies of agency decisions;

(b) Statements of the general course and method by which its operations are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(e) Each amendment or revision to, or repeal of any of the foregoing.

(2) Except to the extent that he has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published or displayed and not so published or displayed.

[1973 c 1 § 25 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.250.]

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**42.56.050****Invasion of privacy, when.**

A person's "right to privacy," "right of privacy," "privacy," or "personal privacy," as these terms are used in this chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. The provisions of this chapter dealing with the right to privacy in certain public records do not create any right of privacy beyond those rights that are specified in this chapter as express exemptions from the public's right to inspect, examine, or copy public records.

[1987 c 403 § 2. Formerly RCW 42.17.255.]

**Notes:**

**Intent -- 1987 c 403:** "The legislature intends to restore the law relating to the release of public records largely to that which existed prior to the Washington Supreme Court decision in *In Re Rosier*," 105 Wn.2d 606 (1986). The intent of this legislation is to make clear that: (1) Absent statutory provisions to the contrary, agencies possessing records should in responding to requests for disclosure not make any distinctions in releasing or not releasing records based upon the identity of the person or agency which requested the records, and (2) agencies having public records should rely only upon statutory exemptions or prohibitions for refusal to provide public records. Further, to avoid unnecessary confusion, "privacy" as used in RCW 42.17.255 is intended to have the same meaning as the definition given that word by the Supreme Court in *Hearst v. Hoppe*," 90 Wn.2d 123, 135 (1978)." [1987 c 403 § 1.]

**Severability -- 1987 c 403:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 403 § 7.]

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**42.56.060****Disclaimer of public liability.**

No public agency, public official, public employee, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record if the public agency, public official, public employee, or custodian acted in good faith in attempting to comply with the provisions of this chapter.

[1992 c 139 § 11. Formerly RCW 42.17.258]

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**42.56.070****Documents and indexes to be made public.**

(1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of \*subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.

(2) For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

(3) Each local agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after January 1, 1973:

- (a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- (b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;
- (c) Administrative staff manuals and instructions to staff that affect a member of the public;
- (d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(4) A local agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(5) Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010 that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010 that were entered after June 30, 1990.

Rules establishing systems of indexing shall include, but not be limited to, requirements for the form and content of the index, its location and availability to the public, and the schedule for revising or updating the index. State agencies that have maintained indexes for records issued before July 1, 1990, shall continue to make such indexes available for public inspection and copying. Information in such indexes may be incorporated into indexes prepared pursuant to this subsection. State agencies may satisfy the requirements of this subsection by making available to the public indexes prepared by other parties but actually used by the agency in its operations. State agencies shall make indexes available for public inspection and copying. State agencies may charge a fee to cover the actual costs of providing individual mailed copies of indexes.

(6) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if:

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(7) Each agency shall establish, maintain, and make available for public inspection and copying a statement of the actual per page cost or other costs, if any, that it charges for providing photocopies of public records and a statement of the factors and manner used to determine the actual per page cost or other costs, if any.

(a) In determining the actual per page cost for providing photocopies of public records, an agency may include all costs directly incident to copying such public records including the actual cost of the paper and the per page cost for use of agency copying equipment. In determining other actual costs for providing photocopies of public records, an agency may include all costs directly incident to shipping such public records, including the cost of postage or delivery charges and the cost of any container or envelope used.

(b) In determining the actual per page cost or other costs for providing copies of public records, an agency may not include staff salaries, benefits, or other general administrative or overhead charges, unless those costs are directly related to the actual cost of copying the public records. Staff time to copy and mail the requested public records may be included in an agency's costs.

(8) An agency need not calculate the actual per page cost or other costs it charges for providing photocopies of public records if to do so would be unduly burdensome, but in that event: The agency may not charge in excess of fifteen cents per page for photocopies of public records or for the use of agency equipment to photocopy public records and the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requestor.

(9) This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of

applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

[2005 c 274 § 284; 1997 c 409 § 601. Prior: 1995 c 397 § 11; 1995 c 341 § 1; 1992 c 139 § 3; 1989 c 175 § 36; 1987 c 403 § 3; 1975 1st ex.s. c 294 § 14; 1973 c 1 § 26 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.260.]

**Notes:**

**\*Reviser's note:** Subsection (6) of this section was renumbered as subsection (7) by 1992 c 139 § 3; and subsection (7) was subsequently renumbered as subsection (9) by 1995 c 341 § 1.

**Part headings -- Severability -- 1997 c 409:** See notes following RCW 43.22.051.

**Effective date -- 1989 c 175:** See note following RCW 34.05.010.

**Intent -- Severability -- 1987 c 403:** See notes following RCW [42.56.050](#).

Exemption for registered trade names: RCW 19.80.065.

### 42.56.080

#### Facilities for copying — Availability of public records.

Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person including, if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. Agencies shall not deny a request for identifiable public records solely on the basis that the request is overbroad. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW [42.56.070](#)(9) or other statute which exempts or prohibits disclosure of specific information or records to certain persons. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies shall honor requests received by mail for identifiable public records unless exempted by provisions of this chapter.

[2005 c 483 § 1; 2005 c 274 § 285; 1987 c 403 § 4; 1975 1st ex.s. c 294 § 15; 1973 c 1 § 27 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.270.]

**Notes:**

**Reviser's note:** This section was amended by 2005 c 274 § 285 and by 2005 c 483 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent -- Severability -- 1987 c 403:** See notes following RCW [42.56.050](#).

### 42.56.090

#### Times for inspection and copying.

Public records shall be available for inspection and copying during the customary office hours of the agency, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives: PROVIDED, That if the entity does not have customary office hours of at least thirty hours per week, the public records shall be available from nine o'clock a.m. to noon and from one o'clock p.m. to four o'clock p.m. Monday through Friday, excluding legal holidays, unless the person making the request and the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives or its representative agree on a different time.

[1995 c 397 § 12; 1973 c 1 § 28 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.280.]

### 42.56.100

#### Protection of public records — Public access.

Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and

personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring requests received by mail for copies of identifiable public records.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved.

[1995 c 397 § 13; 1992 c 139 § 4; 1975 1st ex.s. c 294 § 16; 1973 c 1 § 29 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.290.]

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#### **42.56.110**

##### **Destruction of information relating to employee misconduct.**

Nothing in this chapter prevents an agency from destroying information relating to employee misconduct or alleged misconduct, in accordance with RCW 41.06.450, to the extent necessary to ensure fairness to the employee.

[1982 c 208 § 13. Formerly RCW 42.17.295.]

##### **Notes:**

**Severability -- 1982 c 208:** See RCW 42.40.900.

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#### **42.56.120**

##### **Charges for copying.**

No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges shall not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying. Agency charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page. An agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request. If an agency makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request.

[2005 c 483 § 2. Prior: 1995 c 397 § 14; 1995 c 341 § 2; 1973 c 1 § 30 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.300.]

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#### **42.56.130**

##### **Other provisions not superseded.**

The provisions of RCW [42.56.070](#)(7) and (8) and [42.56.120](#) that establish or allow agencies to establish the costs charged for photocopies of public records do not supersede other statutory provisions, other than in this chapter, authorizing or governing fees for copying public records.

[2005 c 274 § 286; 1995 c 341 § 3. Formerly RCW 42.17.305.]

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#### **42.56.140**

##### **Public records exemptions accountability committee.**

(1)(a) The public records exemptions accountability committee is created to review exemptions from public disclosure, with

thirteen members as provided in this subsection.

(i) The governor shall appoint two members, one of whom represents the governor and one of whom represents local government.

(ii) The attorney general shall appoint two members, one of whom represents the attorney general and one of whom represents a statewide media association.

(iii) The state auditor shall appoint one member.

(iv) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(v) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(vi) The governor shall appoint four members of the public, with consideration given to diversity of viewpoint and geography.

(b) The governor shall select the chair of the committee from among its membership.

(c) Terms of the members shall be four years and shall be staggered, beginning August 1, 2007.

(2) The purpose of the public records exemptions accountability committee is to review public disclosure exemptions and provide recommendations pursuant to subsection (7)(d) of this section. The committee shall develop and publish criteria for review of public exemptions.

(3) All meetings of the committee shall be open to the public.

(4) The committee must consider input from interested parties.

(5) The office of the attorney general and the office of financial management shall provide staff support to the committee.

(6) Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7)(a) Beginning August 1, 2007, the code reviser shall provide the committee by August 1st of each year with a list of all public disclosure exemptions in the Revised Code of Washington.

(b) The committee shall develop a schedule to accomplish a review of each public disclosure exemption. The committee shall publish the schedule and publish any revisions made to the schedule.

(c) The chair shall convene an initial meeting of the committee by September 1, 2007. The committee shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the committee.

(d) For each public disclosure exemption, the committee shall provide a recommendation as to whether the exemption should be continued without modification, modified, scheduled for sunset review at a future date, or terminated. By November 15th of each year, the committee shall transmit its recommendations to the governor, the attorney general, and the appropriate committees of the house of representatives and the senate.

[2007 c 198 § 2.]

#### Notes:

**Finding -- 2007 c 198:** "The legislature recognizes that public disclosure exemptions are enacted to meet objectives that are determined to be in the public interest. Given the changing nature of information technology and management, recordkeeping, and the increasing number of public disclosure exemptions, the legislature finds that periodic reviews of public disclosure exemptions are needed to determine if each exemption serves the public interest." [2007 c 198 § 1.]

#### 42.56.210

##### Certain personal and other records exempt.

(1) Except for information described in RCW [42.56.230](#)(3)(a) and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this chapter are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.



(2) Inspection or copying of any specific records exempt under the provisions of this chapter may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(3) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

[2005 c 274 § 402. Prior: (2006 c 302 § 11 expired July 1, 2006); (2006 c 75 § 2 expired July 1, 2006); (2006 c 8 § 111 expired July 1, 2006); (2003 1st sp.s. c 26 § 926 expired June 30, 2005); 2003 c 277 § 3; 2003 c 124 § 1; prior: 2002 c 335 § 1; 2002 c 224 § 2; 2002 c 205 § 4; 2002 c 172 § 1; prior: 2001 c 278 § 1; 2001 c 98 § 2; 2001 c 70 § 1; prior: 2000 c 134 § 3; 2000 c 56 § 1; 2000 c 6 § 5; prior: 1999 c 326 § 3; 1999 c 290 § 1; 1999 c 215 § 1; 1998 c 69 § 1; prior: 1997 c 310 § 2; 1997 c 274 § 8; 1997 c 250 § 7; 1997 c 239 § 4; 1997 c 220 § 120 (Referendum Bill No. 48, approved June 17, 1997); 1997 c 58 § 900; prior: 1996 c 305 § 2; 1996 c 253 § 302; 1996 c 191 § 88; 1996 c 80 § 1; 1995 c 267 § 6; prior: 1994 c 233 § 2; 1994 c 182 § 1; prior: 1993 c 360 § 2; 1993 c 320 § 9; 1993 c 280 § 35; prior: 1992 c 139 § 5; 1992 c 71 § 12; 1991 c 301 § 13; 1991 c 87 § 13; 1991 c 23 § 10; 1991 c 1 § 1; 1990 2nd ex.s. c 1 § 1103; 1990 c 256 § 1; prior: 1989 1st ex.s. c 9 § 407; 1989 c 352 § 7; 1989 c 279 § 23; 1989 c 238 § 1; 1989 c 205 § 20; 1989 c 189 § 3; 1989 c 11 § 12; prior: 1987 c 411 § 10; 1987 c 404 § 1; 1987 c 370 § 16; 1987 c 337 § 1; 1987 c 107 § 2; prior: 1986 c 299 § 25; 1986 c 276 § 7; 1985 c 414 § 8; 1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.310.]

#### Notes:

**Expiration date -- 2006 c 302:** See note following RCW 66.28.180.

**Expiration date -- 2006 c 75 § 2:** "Section 2 of this act expires July 1, 2006." [2006 c 75 § 4.]

**Expiration date -- 2006 c 8 § 111:** "Section 111 of this act expires July 1, 2006." [2006 c 8 § 404.]

**Expiration date -- Severability -- Effective dates -- 2003 1st sp.s. c 26:** See notes following RCW 43.135.045.

**Working group on veterans' records:** "The protection from identity theft for veterans who choose to file their discharge papers with the county auditor is a matter of gravest concern. At the same time, the integrity of the public record of each county is a matter of utmost importance to the economic life of this state and to the right of each citizen to be secure in his or her ownership of real property and other rights and obligations of our citizens that rely upon the public record for their proof. Likewise the integrity of the public record is essential for the establishment of ancestral ties that may be of interest to this and future generations. While the public record as now kept by the county auditors is sufficient by itself for the accomplishment of these and many other public and private purposes, the proposed use of the public record for purposes that in their nature and intent are not public, so as to keep the veterans' discharge papers from disclosure to those of ill intent, causes concern among many segments of the population of this state.

In order to voice these concerns effectively and thoroughly, a working group may be convened by the joint committee on veterans' and military affairs to develop a means to preserve the integrity of the public record while protecting those veterans from identity theft." [2002 c 224 § 1.]

**Effective date -- 2002 c 224 § 1:** "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2002]." [2002 c 224 § 4.]

**Findings -- Severability -- Effective dates -- 2002 c 205 §§ 2, 3, and 4:** See notes following RCW 28A.320.125.

**Finding -- 2001 c 98:** "The legislature finds that public health and safety is promoted when the public has knowledge that enables them to make informed choices about their health and safety. Therefore, the legislature declares, as a matter of public policy, that the public has a right to information necessary to protect members of the public from harm caused by alleged hazards or threats to the public.

The legislature also recognizes that the public disclosure of those portions of records containing specific and unique vulnerability assessments or specific and unique response plans, either of which is intended to prevent or mitigate criminal terrorist acts as defined in RCW 70.74.285, could have a substantial likelihood of threatening public safety. Therefore, the legislature declares, as a matter of public policy, that such specific and unique information should be protected from unnecessary disclosure." [2001 c 98 § 1.]

**Findings -- Conflict with federal requirements -- Severability -- 2000 c 134:** See notes following RCW 50.13.060.

**Effective date -- 1998 c 69:** See note following RCW 28B.95.025.

**Effective date -- 1997 c 274:** See note following RCW 41.05.021.

**Referendum -- Other legislation limited -- Legislators' personal intent not indicated -- Reimbursements for election -- Voters' pamphlet, election requirements -- 1997 c 220:** See RCW 36.102.800 through 36.102.803.

**Part headings not law -- Severability -- 1997 c 220:** See RCW 36.102.900 and 36.102.901.

**Short title -- Part headings, captions, table of contents not law -- Exemptions and waivers from federal law -- Conflict with federal requirements -- Severability -- 1997 c 58:** See RCW 74.08A.900 through 74.08A.904.

**Severability -- 1996 c 305:** See note following RCW 28B.85.020.

**Findings -- Purpose -- Severability -- Part headings not law -- 1996 c 253:** See notes following RCW 28B.109.010.

**Captions not law -- Severability -- Effective dates -- 1995 c 267:** See notes following RCW 43.70.052.

**Effective date -- 1994 c 233:** See note following RCW 70.123.075.

**Effective date -- 1994 c 182:** "This act shall take effect July 1, 1994." [1994 c 182 § 2.]

**Effective date -- 1993 c 360:** See note following RCW 18.130.085.

**Effective date--Severability -- 1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Finding -- 1991 c 301:** See note following RCW 10.99.020.

**Effective date -- 1991 c 87:** See note following RCW 18.64.350.

**Effective dates -- 1990 2nd ex.s. c 1:** See note following RCW 84.52.010.

**Severability -- 1990 2nd ex.s. c 1:** See note following RCW 82.14.300.

**Effective date -- Severability -- 1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Severability -- 1989 c 279:** See RCW 43.163.901.

**Severability -- 1989 c 11:** See note following RCW 9A.56.220.

**Severability -- 1987 c 411:** See RCW 69.45.900.

**Severability -- Effective date -- 1986 c 299:** See RCW 28C.10.900 and 28C.10.902.

**Severability -- 1986 c 276:** See RCW 53.31.901.

#### Exemptions from public inspection

accounting records of special inquiry judge: RCW 10.29.090.

basic health plan records: RCW 70.47.150.

bill drafting service of code reviser's office: RCW 1.08.027, 44.68.060.

certificate submitted by individual with physical or mental disability seeking a driver's license: RCW 46.20.041.

commercial fertilizers, sales reports: RCW 15.54.362.

criminal records: Chapter 10.97 RCW.

employer information: RCW 50.13.060.

family and children's ombudsman: RCW 43.06A.050.

legislative service center, information: RCW 44.68.060.

medical quality assurance commission, reports required to be filed with: RCW 18.71.0195.

organized crime

    advisory board files: RCW 10.29.030.

    investigative information: RCW 43.43.856.

public transportation information: RCW 47.04.240.

salary and fringe benefit survey information: RCW 41.06.160.

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## 42.56.230

### Personal information.

\*\*\* CHANGE IN 2008 \*\*\* (SEE 2729-S.SL) \*\*\*

The following personal information is exempt from public inspection and copying under this chapter:

- (1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or

public health agencies, or welfare recipients;

(2) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (a) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer; and

(4) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

[2005 c 274 § 403.]

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#### **42.56.240**

##### **Investigative, law enforcement, and crime victims.**

**\*\*\* CHANGE IN 2008 \*\*\* (SEE 2712-S2.SL) \*\*\***

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies; and

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.

[2005 c 274 § 404.]

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#### **42.56.250**

##### **Employment and licensing.**

The following employment and licensing information is exempt from public inspection and copying under this chapter:

(1) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;

(2) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(3) The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of dependents of employees

or volunteers of a public agency that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency. For purposes of this subsection, "employees" includes independent provider home care workers as defined in RCW 74.39A.240;

(4) Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed;

(5) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment; and

(6) Except as provided in RCW 47.64.220, salary and employee benefit information collected under RCW 47.64.220(1) and described in RCW 47.64.220(2).

[2006 c 209 § 6; 2005 c 274 § 405.]

#### **42.56.260**

##### **Real estate appraisals.**

Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, are exempt from disclosure under this chapter. In no event may disclosure be denied for more than three years after the appraisal.

[2005 c 274 § 406.]

#### **42.56.270**

##### **Financial, commercial, and proprietary information. (Expires June 30, 2008.)**

**\*\*\* CHANGE IN 2008 \*\*\* (SEE 5927.SL) \*\*\***

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters \*15.110, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that

leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Independent auditors' reports and financial statements of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW;

(c) Financial or proprietary information supplied to the liquor control board including the amount of beer or wine sold by a domestic winery, brewery, microbrewery, or certificate of approval holder under RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or wine purchased by a retail licensee in connection with a retail licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of shipments of beer or wine;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and \*\*43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW [42.56.610](#) and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information; and

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business.

[2007 c 470 § 1; 2007 c 251 § 12; 2007 c 197 § 3. Prior: 2006 c 369 § 2; 2006 c 341 § 6; 2006 c 338 § 5; 2006 c 302 § 12; 2006 c 209 § 7; 2006 c 183 § 37; 2006 c 171 § 8; 2005 c 274 § 407.]

**Notes:**

**Reviser's note:** \*(1) Chapter 15.110 RCW was recodified as chapter 43.325 RCW pursuant to 2007 c 348 § 502.

\*\* (2) RCW 43.330.080 was amended by 2007 c 249 § 2, deleting subsection (4).

(3) This section was amended by 2007 c 197 § 3, 2007 c 251 § 12, and by 2007 c 470 § 1, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Expiration date -- 2007 c 470 § 1:** "Section 1 of this act expires June 30, 2008." [2007 c 470 § 3.]

**Expiration date -- 2007 c 251 § 12:** "Section 12 of this act expires June 30, 2008." [2007 c 251 § 17.]

**Captions not law -- Severability -- 2007 c 251:** See notes following RCW 35.104.010.

**Expiration date -- 2007 c 197 § 3:** "Section 3 of this act expires June 30, 2008." [2007 c 197 § 10.]

**Effective date -- 2006 c 369 § 2:** "Section 2 of this act takes effect July 1, 2006." [2006 c 369 § 3.]

**Effective date -- 2006 c 341 § 6:** "Section 6 of this act takes effect July 1, 2006." [2006 c 341 § 7.]

**Findings -- Intent -- 2006 c 338:** See note following RCW 19.112.110.

**Effective date -- Severability -- 2006 c 338:** See RCW 19.112.903 and 19.112.904.

**Effective date -- 2006 c 302 §§ 10 and 12:** See note following RCW 66.28.180.

**Construction -- Severability -- Effective date -- 2006 c 183:** See RCW 70.95N.900 through 70.95N.902.

**Effective date -- 2006 c 171 §§ 8 and 10:** "Sections 8 and 10 of this act take effect July 1, 2006." [2006 c 171 § 13.]

**Findings -- Severability -- 2006 c 171:** See RCW 43.325.001 and 43.325.901.

**42.56.270****Financial, commercial, and proprietary information. (Effective June 30, 2008.)****\*\*\* CHANGE IN 2008 \*\*\* (SEE 5927.SL) \*\*\***

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters \*15.110, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Independent auditors' reports and financial statements of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and \*\*43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW [42.56.610](#) and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information; and

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business.

[2007 c 470 § 2; 2007 c 251 § 13; 2007 c 197 § 4. Prior: 2006 c 369 § 2; 2006 c 341 § 6; 2006 c 338 § 5; 2006 c 209 § 7; 2006 c 183 § 37; 2006 c 171 § 8; 2005 c 274 § 407.]

#### Notes:

**Reviser's note:** \*(1) Chapter 15.110 RCW was recodified as chapter 43.325 RCW pursuant to 2007 c 348 § 502.

**\*\***(2) RCW 43.330.080 was amended by 2007 c 249 § 2, deleting subsection (4).

(3) This section was amended by 2007 c 197 § 4, 2007 c 251 § 13, and by 2007 c 470 § 2, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date -- 2007 c 470 § 2:** "Section 2 of this act takes effect June 30, 2008." [2007 c 470 § 4.]

**Effective date -- 2007 c 251 § 13:** "Section 13 of this act takes effect June 30, 2008." [2007 c 251 § 18.]

**Captions not law -- Severability -- 2007 c 251:** See notes following RCW 35.104.010.

**Effective date -- 2007 c 197 § 4:** "Section 4 of this act takes effect June 30, 2008." [2007 c 197 § 11.]

**Effective date -- 2006 c 369 § 2:** "Section 2 of this act takes effect July 1, 2006." [2006 c 369 § 3.]

**Effective date -- 2006 c 341 § 6:** "Section 6 of this act takes effect July 1, 2006." [2006 c 341 § 7.]

**Findings -- Intent -- 2006 c 338:** See note following RCW 19.112.110.

**Effective date -- Severability -- 2006 c 338:** See RCW 19.112.903 and 19.112.904.

**Construction -- Severability -- Effective date -- 2006 c 183:** See RCW 70.95N.900 through 70.95N.902.

**Effective date -- 2006 c 171 §§ 8 and 10:** "Sections 8 and 10 of this act take effect July 1, 2006." [2006 c 171 § 13.]

**Findings -- Severability -- 2006 c 171:** See RCW 43.325.001 and 43.325.901.

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#### 42.56.280

##### **Preliminary drafts, notes, recommendations, intra-agency memorandums.**

Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended are exempt under this chapter, except that a specific record is not exempt when publicly cited by an agency in connection with any agency action.

[2005 c 274 § 408.]

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#### 42.56.290

##### **Agency party to controversy.**

Records that are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts are exempt from disclosure under this chapter.

[2005 c 274 § 409.]

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#### 42.56.300

##### **Archaeological sites.**

(1) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or deprecation of such sites are exempt from disclosure under this chapter.

(2) Records, maps, and other information, acquired during watershed analysis pursuant to the forests and fish report under RCW 76.09.370, that identify the location of archaeological sites, historic sites, artifacts, or the sites of traditional religious, ceremonial, or social uses and activities of affected Indian tribes, are exempt from disclosure under this chapter in order to prevent the looting or deprecation of such sites.

[2006 c 86 § 1; 2005 c 274 § 410.]

##### **Notes:**



**Effective date -- 2006 c 86:** "This act takes effect July 1, 2006." [2006 c 86 § 2.]

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#### **42.56.310**

##### **Library records.**

Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, that discloses or could be used to disclose the identity of a library user is exempt from disclosure under this chapter.

[2005 c 274 § 411.]

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#### **42.56.320**

##### **Educational information.**

The following educational information is exempt from disclosure under this chapter:

- (1) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW;
- (2) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units;
- (3) Individually identifiable information received by the workforce training and education coordinating board for research or evaluation purposes; and
- (4) Except for public records as defined in \*RCW 40.14.040, any records or documents obtained by a state college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regulate public access to those records or documents.

[2005 c 274 § 412.]

##### **Notes:**

**\*Reviser's note:** A definition of "public records" is found in RCW 40.14.010.

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#### **42.56.330**

##### **Public utilities and transportation.**

**\*\*\* CHANGE IN 2008 \*\*\* (SEE 2729-S.SL) \*\*\***

The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

- (1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095;
- (2) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;
- (3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service; however, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;
- (4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;
- (5) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public

transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety;

(6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010; and

(7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.

[2007 c 197 § 5; 2006 c 209 § 8; 2005 c 274 § 413.]

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### 42.56.335

#### Public utility districts and municipally owned electrical utilities — Restrictions on access by law enforcement authorities.

A law enforcement authority may not request inspection or copying of records of any person who belongs to a public utility district or a municipally owned electrical utility unless the authority provides the public utility district or municipally owned electrical utility with a written statement in which the authority states that it suspects that the particular person to whom the records pertain has committed a crime and the authority has a reasonable belief that the records could determine or help determine whether the suspicion might be true. Information obtained in violation of this section is inadmissible in any criminal proceeding.

[2007 c 197 § 6.]

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### 42.56.340

#### Timeshare, condominium, etc. owner lists.

Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department are exempt from disclosure under this chapter.

[2005 c 274 § 414.]

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### 42.56.350

#### Health professionals.

(1) The federal Social Security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health is exempt from disclosure under this chapter. The exemption in this section does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations.

(2) The current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department are exempt from disclosure under this chapter, if the provider requests that this information be withheld from public inspection and copying, and provides to the department of health an accurate alternate or business address and business telephone number. The current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department of health shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW [42.56.070](#)(9).

[2005 c 274 § 415.]

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**42.56.360****Health care. (Effective until July 1, 2009.)****\*\*\* CHANGE IN 2008 \*\*\* (SEE 6457-S.SL) \*\*\***

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170;

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1); and

(h) Information obtained by the department of health under chapter 70.225 RCW.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

[2007 c 261 § 4; 2007 c 259 § 49. Prior: 2006 c 209 § 9; 2006 c 8 § 112; 2005 c 274 § 416.]

**Notes:**

**Reviser's note:** This section was amended by 2007 c 259 § 49 and by 2007 c 261 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings -- 2007 c 261:** See note following RCW 43.70.056.

**Severability -- Subheadings not law -- 2007 c 259:** See notes following RCW 41.05.033.

**Effective date -- 2006 c 8 §§ 112 and 210:** "Sections 112 and 210 of this act take effect July 1, 2006." [2006 c 8 § 405.]

**Findings -- Intent -- Part headings and subheadings not law -- Severability -- 2006 c 8:** See notes following RCW 5.64.010.

Basic health plan -- Confidentiality: RCW 70.47.150.

**42.56.360****Health care. (Effective July 1, 2009.)****\*\*\* CHANGE IN 2008 \*\*\* (SEE 6457-S.SL) \*\*\***

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170;

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1); and

(h) Information obtained by the department of health under chapter 70.225 RCW.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

[2007 c 273 § 25; 2007 c 261 § 4; 2007 c 259 § 49. Prior: 2006 c 209 § 9; 2006 c 8 § 112; 2005 c 274 § 416.]

#### Notes:

**Reviser's note:** This section was amended by 2007 c 259 § 49, 2007 c 261 § 4, and by 2007 c 273 § 25, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date -- Implementation -- 2007 c 273:** See RCW 70.230.900 and 70.230.901.

**Findings -- 2007 c 261:** See note following RCW 43.70.056.

**Severability -- Subheadings not law -- 2007 c 259:** See notes following RCW 41.05.033.

**Effective date -- 2006 c 8 §§ 112 and 210:** "Sections 112 and 210 of this act take effect July 1, 2006." [2006 c 8 § 405.]

**Findings -- Intent -- Part headings and subheadings not law -- Severability -- 2006 c 8:** See notes following RCW 5.64.010.

Basic health plan -- Confidentiality: RCW 70.47.150.

#### 42.56.370

#### Domestic violence program, rape crisis center clients.

Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030 are exempt from disclosure under this chapter.

[2005 c 274 § 417.]

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**42.56.380****Agriculture and livestock.**

The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

- (1) Business-related information under RCW 15.86.110;
- (2) Information provided under RCW 15.54.362;
- (3) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.89, and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;
- (4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;
- (5) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.89, or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information;
- (6) Except under RCW 15.19.080, information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer;
- (7) Information that can be identified to a particular business and that is collected under RCW 15.17.140(2) and 15.17.143 for certificates of compliance;
- (8) Financial statements provided under RCW 16.65.030(1)(d);
- (9) Information submitted by an individual or business for the purpose of participating in a state or national animal identification system. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete; and
- (10) Results of testing for animal diseases not required to be reported under chapter 16.36 RCW that is done at the request of the animal owner or his or her designee that can be identified to a particular business or individual.

[2007 c 177 § 1. Prior: 2006 c 330 § 26; 2006 c 75 § 3; 2005 c 274 § 418.]

**Notes:**

**Effective date -- 2006 c 330 § 26:** "Section 26 of this act takes effect July 1, 2006." [2006 c 330 § 32.]

**Construction -- Severability -- 2006 c 330:** See RCW 15.89.900 and 15.89.901.

**Effective date -- 2006 c 75 § 3:** "Section 3 of this act takes effect July 1, 2006." [2006 c 75 § 5.]

**Findings -- 2006 c 75:** "The legislature finds that livestock identification numbers, premise information, and animal movement data are proprietary information that all have a role in defining a livestock producer's position within the marketplace, including his or her competitive advantage over other producers. The legislature therefore finds that exempting certain voluntary livestock identification, premise, and movement information from state public disclosure requirements will foster an environment that is more conducive to voluntary participation, and lead to a more effective livestock identification system." [2006 c 75 § 1.]

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**42.56.390****Emergency or transitional housing.**

Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043 are exempt from disclosure under this chapter.

[2005 c 274 § 419.]

#### 42.56.400

#### Insurance and financial institutions. (Effective until July 1, 2009.)

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

- (1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;
- (2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;
- (3) The names and individual identification data of all viators regulated by the insurance commissioner under chapter 48.102 RCW;
- (4) Information provided under RCW 48.30A.045 through 48.30A.060;
- (5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;
- (6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;
- (7) Information provided to the insurance commissioner under RCW 48.110.040(3);
- (8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;
- (9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;
- (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:
  - (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
  - (b) "Health care facility" has the same meaning as in RCW 48.140.010(6).
  - (c) "Health care provider" has the same meaning as in RCW 48.140.010(7).
  - (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
  - (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11); and
- (11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;
- (12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;
- (13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080; and
- (14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140.

[2007 c 197 § 7; 2007 c 82 § 17. Prior: 2006 c 284 § 17; 2006 c 8 § 210; 2005 c 274 § 420.]

#### Notes:

**Reviser's note:** This section was amended by 2007 c 82 § 17 and by 2007 c 197 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability -- Effective date -- 2006 c 284:** See RCW 48.135.900 and 48.135.901.

**Effective date -- 2006 c 8 §§ 112 and 210:** See note following RCW [42.56.360](#).

**Findings -- Intent -- Part headings and subheadings not law -- Severability -- 2006 c 8:** See notes following RCW 5.64.010.

#### **42.56.400**

#### **Insurance and financial institutions. (Effective July 1, 2009.)**

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of all viators regulated by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140; and

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595.

[2007 c 197 § 7; 2007 c 117 § 36; 2007 c 82 § 17. Prior: 2006 c 284 § 17; 2006 c 8 § 210; 2005 c 274 § 420.]

**Notes:**

**Reviser's note:** This section was amended by 2007 c 82 § 17, 2007 c 117 § 36, and by 2007 c 197 § 7, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability -- Effective date -- 2007 c 117:** See RCW 48.17.900 and 48.17.901.

**Severability -- Effective date -- 2006 c 284:** See RCW 48.135.900 and 48.135.901.

**Effective date -- 2006 c 8 §§ 112 and 210:** See note following RCW [42.56.360](#).

**Findings -- Intent -- Part headings and subheadings not law -- Severability -- 2006 c 8:** See notes following RCW 5.64.010.

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**42.56.403**

**Property and casualty insurance statements of actuarial opinion. (Effective December 31, 2007.)**

Documents, materials, and information obtained by the insurance commissioner under RCW 48.05.385(2) are confidential and privileged and not subject to public disclosure under this chapter.

[2006 c 25 § 3.]

**Notes:**

**Short title -- 2006 c 25 §§ 1-3:** See note following RCW 48.05.383.

**Effective date -- 2006 c 25 §§ 1-4:** See note following RCW 48.05.383.

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**42.56.410**

**Employment security department records, certain purposes.**

Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes are exempt from disclosure under this chapter.

[2005 c 274 § 421.]

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**42.56.420**

**Security.**

The following information relating to security is exempt from disclosure under this chapter:

(1) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(a) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(b) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism;

(2) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility or any individual's safety;



(3) Information compiled by school districts or schools in the development of their comprehensive safe school plans under RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school;

(4) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities; and

(5) The \*security section of transportation system safety and security program plans required under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180.

[2005 c 274 § 422.]

**Notes:**

\***Reviser's note:** "Security section of transportation system safety and security program plans" was changed to "system security and emergency preparedness plan" by chapter 422, Laws of 2007.

**42.56.430**

**Fish and wildlife.**

**\*\*\* CHANGE IN 2008 \*\*\* (SEE 6821.SL) \*\*\***

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data may be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration; and

(3) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

[2007 c 293 § 1; 2005 c 274 § 423.]

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#### **42.56.440 Veterans' discharge papers — Exceptions.**

(1) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents are exempt from disclosure under this chapter. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(2) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records are exempt from disclosure under this chapter, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(3) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(4) For the purposes of this section, next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

[2005 c 274 § 424.]

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#### **42.56.450 Check cashers and sellers licensing applications.**

Information in an application for licensing or a small loan endorsement under chapter 31.45 RCW regarding the personal residential address, telephone number of the applicant, or financial statement is exempt from disclosure under this chapter.

[2005 c 274 § 425.]

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#### **42.56.460 Fireworks.**

All records obtained and all reports produced as required by state fireworks law, chapter 70.77 RCW, are exempt from disclosure under this chapter.

[2005 c 274 § 426.]

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#### **42.56.470 Correctional industries workers.**

All records, documents, data, and other materials obtained under the requirements of RCW 72.09.115 from an existing correctional industries class I work program participant or an applicant for a proposed new or expanded class I correctional industries work program are exempt from public disclosure under this chapter.

[2005 c 274 § 427.]

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### **42.56.480** **Inactive programs.**

Information relating to the following programs and reports, which have no ongoing activity, is exempt from disclosure under this chapter:

(1) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under \*RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter;

(2) Personal information in files maintained in a database created under \*\*RCW 43.07.360; and

(3) Data collected by the department of social and health services for the reports required by section 8, chapter 231, Laws of 2003, except as compiled in the aggregate and reported to the senate and house of representatives.

[2005 c 274 § 428.]

#### **Notes:**

**Reviser's note:** \*(1) RCW 81.34.070 was repealed by 1991 c 49 § 1.

\*\* (2) RCW 43.07.360 expired December 31, 2000, pursuant to 1996 c 253 § 502.

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### **42.56.510** **Duty to disclose or withhold information — Otherwise provided.**

Nothing in RCW [42.56.250](#) and [42.56.330](#) shall affect a positive duty of an agency to disclose or a positive duty to withhold information which duty to disclose or withhold is contained in any other law.

[2005 c 274 § 287; 1991 c 23 § 11; 1990 c 256 § 2; 1987 c 404 § 3. Formerly RCW 42.17.311.]

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### **42.56.520** **Prompt responses required.**

Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond by either (1) providing the record; (2) acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request; or (3) denying the public record request. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it. Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review.

[1995 c 397 § 15; 1992 c 139 § 6; 1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.320.]

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### **42.56.530** **Review of agency denial.**

Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter. The attorney general

shall provide the person with his or her written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section.

[1992 c 139 § 10. Formerly RCW 42.17.325.]

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#### 42.56.540

##### Court protection of public records.

The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice.

[1992 c 139 § 7; 1975 1st ex.s. c 294 § 19; 1973 c 1 § 33 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.330.]

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#### 42.56.550

##### Judicial review of agency actions.

(1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.

(3) Judicial review of all agency actions taken or challenged under RCW [42.56.030](#) through [42.56.520](#) shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

(4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not less than five dollars and not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.

(5) For actions under this section against counties, the venue provisions of RCW 36.01.050 apply.

(6) Actions under this section must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis.

[2005 c 483 § 5; 2005 c 274 § 288; 1992 c 139 § 8; 1987 c 403 § 5; 1975 1st ex.s. c 294 § 20; 1973 c 1 § 34 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.340.]

#### Notes:

**Reviser's note:** This section was amended by 2005 c 274 § 288 and by 2005 c 483 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent -- Severability -- 1987 c 403:** See notes following RCW [42.56.050](#).

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**42.56.560****Application of RCW 42.56.550.**

The procedures in RCW [42.56.550](#) govern denials of an opportunity to inspect or copy a public record by the office of the secretary of the senate or the office of the chief clerk of the house of representatives.

[2005 c 274 § 289; 1995 c 397 § 16. Formerly RCW 42.17.341.]

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**42.56.570****Explanatory pamphlet.**

(1) The attorney general's office shall publish, and update when appropriate, a pamphlet, written in plain language, explaining this chapter.

(2) The attorney general, by February 1, 2006, shall adopt by rule an advisory model rule for state and local agencies, as defined in RCW [42.56.010](#), addressing the following subjects:

- (a) Providing fullest assistance to requestors;
  - (b) Fulfilling large requests in the most efficient manner;
  - (c) Fulfilling requests for electronic records; and
  - (d) Any other issues pertaining to public disclosure as determined by the attorney general.
- (3) The attorney general, in his or her discretion, may from time to time revise the model rule.

[2007 c 197 § 8. Prior: 2005 c 483 § 4; 2005 c 274 § 290; 1992 c 139 § 9. Formerly RCW 42.17.348.]

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**42.56.580****Public records officers.**

(1) Each state and local agency shall appoint and publicly identify a public records officer whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency's compliance with the public records disclosure requirements of this chapter. A state or local agency's public records officer may appoint an employee or official of another agency as its public records officer.

(2) For state agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance with the public records disclosure requirements of this chapter shall be published in the state register at the time of designation and maintained thereafter on the code reviser web site for the duration of the designation.

(3) For local agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance within the public records disclosure requirements of this chapter shall be made in a way reasonably calculated to provide notice to the public, including posting at the local agency's place of business, posting on its internet site, or including in its publications.

[2007 c 456 § 6; 2005 c 483 § 3. Formerly RCW 42.17.253.]

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**42.56.590****Personal information — Notice of security breaches.**

(1)(a) Any agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3) of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) For purposes of this section, "agency" means the same as in RCW [42.56.010](#).

(2) Any agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(a) Social security number;

(b) Driver's license number or Washington identification card number; or

(c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(7) For purposes of this section and except under subsection (8) of this section, notice may be provided by one of the following methods:

(a) Written notice;

(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or

(c) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(i) E-mail notice when the agency has an e-mail address for the subject persons;

(ii) Conspicuous posting of the notice on the agency's web site page, if the agency maintains one; and

(iii) Notification to major statewide media.

(8) An agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(9) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

(10)(a) Any customer injured by a violation of this section may institute a civil action to recover damages.

(b) Any business that violates, proposes to violate, or has violated this section may be enjoined.

(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

(d) An agency shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity.

[2007 c 197 § 9; 2005 c 368 § 1. Formerly RCW 42.17.31922.]

**Notes:**

Similar provision: RCW 19.255.010.

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**42.56.600****Mediation communications.**

Records of mediation communications that are privileged under chapter 7.07 RCW are exempt from disclosure under this chapter.

[2006 c 209 § 15.]

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**42.56.610****Certain information from dairies and feedlots limited — Rules.**

The following information in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations, not required to apply for a national pollutant discharge elimination system permit is disclosable only in ranges that provide meaningful information to the public while ensuring confidentiality of business information regarding: (1) Number of animals; (2) volume of livestock nutrients generated; (3) number of acres covered by the plan or used for land application of livestock nutrients; (4) livestock nutrients transferred to other persons; and (5) crop yields. The department of agriculture shall adopt rules to implement this section in consultation with affected state and local agencies.

[2005 c 510 § 5. Formerly RCW 42.17.31923.]

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**42.56.900****Purpose — 2005 c 274 §§ 402-429.**

The purpose of sections 402 through 429 of this act is to reorganize the public inspection and copying exemptions in RCW 42.17.310 through 42.17.31921 by creating smaller, discrete code sections organized by subject matter. The legislature does not intend that this act effectuate any substantive change to any public inspection and copying exemption in the Revised Code of Washington.

[2005 c 274 § 401.]

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**42.56.901****Part headings not law — 2005 c 274.**

Part headings used in this act are not any part of the law.

[2005 c 274 § 501.]

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**42.56.902****Effective date — 2005 c 274.**

This act takes effect July 1, 2006.

[2005 c 274 § 502.]

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**42.56.903****Effective date — 2006 c 209.**

This act takes effect July 1, 2006.

[2006 c 209 § 17.]

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#### **42.56.904**

##### **Intent — 2007 c 391.**

It is the intent of the legislature to clarify that no reasonable construction of chapter 42.56 RCW has ever allowed attorney invoices to be withheld in their entirety by any public entity in a request for documents under that chapter. It is further the intent of the legislature that specific descriptions of work performed be redacted only if they would reveal an attorney's mental impressions, actual legal advice, theories, or opinions, or are otherwise exempt under chapter 391, Laws of 2007 or other laws, with the burden upon the public entity to justify each redaction and narrowly construe any exception to full disclosure. The legislature intends to clarify that the public's interest in open, accountable government includes an accounting of any expenditure of public resources, including through liability insurance, upon private legal counsel or private consultants.

[2007 c 391 § 1.]