

6996

2011-2012 Regular Sessions

I N A S S E M B L Y

April 7, 2011

Introduced by M. of A. PAULIN, GALEF, STEVENSON, BRONSON, N. RIVERA,
WEPRIN -- Multi-Sponsored by -- M. of A. GABRYSZAK, LUPARDO,
P. RIVERA, SWEENEY, THIELE -- read once and referred to the Committee
on Governmental Operations

AN ACT to amend the public officers law, in relation to attorney's fees
where a person or entity fails to prove that an agency should properly
withhold records

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5 of section 89 of the public officers law is
2 amended by adding a new paragraph (i) to read as follows:
3 (I) IN ANY PROCEEDING COMMENCED TO REVIEW AN ADVERSE DETERMINATION
4 PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION IN WHICH THE PERSON OR
5 ENTITY INITIATING SUCH PROCEEDING FAILS TO SUBSTANTIALLY PREVAIL BY
6 PROVING THAT THE RECORDS AT ISSUE MAY PROPERLY BE WITHHELD FROM THE
7 PUBLIC, THE COURT IN SUCH PROCEEDING SHALL DIRECT SUCH PERSON OR ENTITY
8 TO REMIT TO THE AGENCY INVOLVED REASONABLE ATTORNEY'S FEES AND OTHER
9 LITIGATION COSTS REASONABLY INCURRED BY THE AGENCY.
10 S 2. This act shall take effect on the sixtieth day after it shall
11 have become a law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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