S T A T E O F N E W Y O R K

4754

2011-2012 Regular Sessions

I N S E N A T E

April 18, 2011

Introduced by Sen. SALAND -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 5 of section 89 of the public officers law is amended by adding a new paragraph (i) to read as follows:

(I) IN ANY PROCEEDING COMMENCED TO REVIEW AN ADVERSE DETERMINATION PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION IN WHICH THE PERSON OR ENTITY INITIATING SUCH PROCEEDING FAILS TO SUBSTANTIALLY PREVAIL BY PROVING THAT THE RECORDS AT ISSUE MAY PROPERLY BE WITHHELD FROM THE PUBLIC, THE COURT IN SUCH PROCEEDING SHALL DIRECT SUCH PERSON OR ENTITY TO REMIT TO THE AGENCY INVOLVED REASONABLE ATTORNEY'S FEES AND OTHER LITIGATION COSTS REASONABLY INCURRED BY THE AGENCY.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.

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

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