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

1638

2015-2016 Regular Sessions

I N  S E N A T E

January 13, 2015

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to actions involving public petition and participation

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

Section 1. Paragraph (a) of subdivision 1 of section 70-a of the civil rights law, as added by chapter 767 of the laws of 1992, is amended to read as follows:

(a) costs and attorney's fees [may] SHALL be recovered upon a demonstration, INCLUDING AN ADJUDICATION PURSUANT TO SUBDIVISION (G) OF RULE THIRTY-TWO HUNDRED ELEVEN OR SUBDIVISION (H) OF RULE THIRTY-TWO HUNDRED TWELVE OF THE CIVIL PRACTICE LAW AND RULES, that the action involving public petition and participation was commenced or continued without a substantial basis in fact and law and could not be supported by a substantial argument for the extension, modification or reversal of existing law;

S 2. Subdivision 1 of section 76-a of the civil rights law, as added by chapter 767 of the laws of 1992, is amended to read as follows:

1. For purposes of this section:

(a) An "action involving public petition and participation" is [an action,] A claim[, cross claim or counterclaim for damages that is brought by a public applicant or permittee, and is materially related to any efforts of the defendant to report on, comment on, rule on, challenge or oppose such application or permission] BASED UPON:

(1) ANY COMMUNICATION IN A PLACE OPEN TO THE PUBLIC OR A PUBLIC FORUM IN CONNECTION WITH AN ISSUE OF PUBLIC CONCERN; OR

(2) ANY OTHER LAWFUL CONDUCT IN FURTHERANCE OF THE EXERCISE OF THE CONSTITUTIONAL RIGHT OF FREE SPEECH IN CONNECTION WITH AN ISSUE OF PUBLIC CONCERN, OR IN FURTHERANCE OF THE EXERCISE OF THE CONSTITUTIONAL RIGHT OF PETITION.

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

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(b) ["Public applicant or permittee" shall mean any person who has applied for or obtained a permit, zoning change, lease, license, certificate or other entitlement for use or permission to act from any government body, or any person with an interest, connection or affiliation with such person that is materially related to such application or permission] "CLAIM" INCLUDES ANY LAWSUIT, CAUSE OF ACTION, CROSS-CLAIM, COUNTERCLAIM, OR OTHER JUDICIAL PLEADING OR FILING REQUESTING RELIEF.

(c) "Communication" shall mean any statement, claim, allegation in a proceeding, decision, protest, writing, argument, contention or other expression.

[(d) "Government body" shall mean any municipality, the state, any other political subdivision or agency of such, the federal government, any public benefit corporation, or any public authority, board, or commission.]

S 3. This act shall take effect immediately and shall apply to actions commenced on or after such date.