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

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I N A S S E M B L Y

March 10, 2016

Introduced by M. of A. PAULIN, GALEF, BRINDISI, CAHILL, HIKIND, JAFFEE, KAVANAGH, LAVINE, MAGNARELLI, ROSENTHAL, TITONE, ZEBROWSKI, FAHY -- Multi-Sponsored by -- M. of A. COLTON, COOK, GOTTFRIED, LUPARDO, PERRY, ROBINSON, THIELE, WRIGHT -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law, in relation to freedom of information requests and attorneys' fees

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

Section 1. Paragraph (c) of subdivision 4 of section 89 of the public officers law, as amended by chapter 492 of the laws of 2006, is amended to read as follows:

(c) [The court in such a proceeding may assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed, when:

i. the agency had no reasonable basis for denying access; or

ii. the agency failed to respond to a request or appeal within the statutory time.]

THE COURT IN SUCH PROCEEDING SHALL ASSESS, AGAINST SUCH AGENCY INVOLVED, REASONABLE ATTORNEYS' FEES AND OTHER LITIGATION COSTS REASONABLY INCURRED BY SUCH PERSON, IN ANY CASE UNDER THE PROVISIONS OF THIS SECTION IN WHICH SUCH PERSON HAS SUBSTANTIALLY PREVAILED UNLESS THE COURT FINDS THAT THE POSITION OF SUCH AGENCY WAS SUBSTANTIALLY JUSTIFIED OR THAT SPECIAL CIRCUMSTANCES MAKE SUCH ASSESSMENT UNJUST; OR THE AGENCY FAILED TO RESPOND TO A REQUEST OR APPEAL WITHIN THE STATUTORY TIME, UNLESS THE COURT FINDS THAT THE AGENCY PROVIDED SUBSTANTIVE EVIDENCE OF INABILITY TO COMPLY.

S 2. This act shall take effect immediately.

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

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