

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 625

An Act to amend and reenact § 2.2-4030 of the Code of Virginia, relating to recovery of attorney fees from agency; actions brought in violation of law or for an improper purpose.

[S 746]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-4030 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-4030. Recovery of costs and attorney fees from agency.

A. In any civil case brought under Article 5 (§ 2.2-4025 et seq.) of this chapter or §§ § 2.2-4002, 2.2-4006, 2.2-4011, or § 2.2-4018, in which any person contests any agency action, such person shall be entitled to recover from that agency, including the Department of Game and Inland Fisheries, reasonable costs and ~~attorneys'~~ attorney fees if such person substantially prevails on the merits of the case and (i) the agency's position is not substantially justified, (ii) *the agency action was in violation of law, or (iii) the agency action was for an improper purpose*, unless special circumstances would make an award unjust. The award of ~~attorneys'~~ attorney fees shall not exceed \$25,000.

B. Nothing in this section shall be deemed to grant permission to bring an action against an agency if the agency would otherwise be immune from suit; or to grant a right to bring an action by a person who would otherwise lack standing to bring the action.

C. Any costs and ~~attorneys'~~ attorney fees assessed against an agency under this section shall be charged against the operating expenses of the agency for the fiscal year in which the assessment is made; and shall not be reimbursed from any other source.