

# VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

## CHAPTER 692

*An Act to amend and reenact § 9-6.14:21 of the Code of Virginia, relating to the Administrative Process Act; recovery of attorney fees.*

[H 1267]

Approved March 21, 1997

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9-6.14:21 of the Code of Virginia is amended and reenacted as follows:**

§ 9-6.14:21. Recovery of costs and attorney fees from agency.

A. In any civil case brought under Article 4 (§ 9-6.14:15 et seq.) of this chapter and § 9-6.14:4.1, in which any person contests any agency action, as defined in § 9-6.14:4, such person shall be entitled to recover from that agency, as defined in the section referred to above and including the Department of Game and Inland Fisheries, reasonable costs and attorney fees if such person substantially prevails on the merits of the case ~~and the agency is found to have acted unreasonably~~ *and the agency's position is not substantially justified*, unless special circumstances would make an award unjust. *The award of 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 such 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 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.