

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4  
5 Approved

[S 746]

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

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

8 **§ 2.2-4030. Recovery of costs and attorney fees from agency.**

9 A. In any civil case brought under Article 5 (§ 2.2-4025 et seq.) of this chapter or §§ § 2.2-4002,  
10 2.2-4006, 2.2-4011, or § 2.2-4018, in which any person contests any agency action, such person shall be  
11 entitled to recover from that agency, including the Department of Game and Inland Fisheries, reasonable  
12 costs and ~~attorneys'~~ attorney fees if such person substantially prevails on the merits of the case and (i)  
13 the agency's position is not substantially justified, (ii) *the agency action was in violation of law, or (iii)*  
14 *the agency action was for an improper purpose*, unless special circumstances would make an award  
15 unjust. The award of ~~attorneys'~~ attorney fees shall not exceed \$25,000.

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

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

ENROLLED

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