



281710

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2017	.	
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The Committee on Community Affairs (Steube) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 119.12, Florida Statutes, is amended to  
read:

119.12 Attorney ~~Attorney's~~ fees.-

(1) If a civil action is filed against an agency to enforce  
~~the provisions of~~ this chapter and ~~if~~ the court determines that  
the complainant provided written notice of the public records



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11 request to the agency's custodian of public records at least 5  
12 business days before filing the civil action and the ~~such~~ agency  
13 unlawfully refused to permit a public record listed in the  
14 notice to be inspected or copied, the court ~~may~~ ~~shall~~ assess and  
15 award, against the responsible agency ~~responsible~~, the  
16 reasonable costs of enforcement, including reasonable attorney  
17 attorneys' fees.

18 (2) (a) In determining whether the responsible agency  
19 unlawfully refused to permit a public record to be inspected or  
20 copied, the court shall consider if the request to inspect or  
21 copy the public record was made in bad faith or was made to  
22 harass the agency or to cause a violation of this chapter and if  
23 the responsible agency responded in good faith to the request to  
24 inspect or copy the records.

25 (b) The court may assess and award reasonable attorney fees  
26 against the complainant filing such an action if the court finds  
27 the action was filed in bad faith or was frivolous.

28 (c) If the complainant shows by the preponderance of the  
29 evidence that the agency intentionally or willfully refused to  
30 permit a public record listed in the notice to be inspected or  
31 copied, the court shall, after making such a finding, assess and  
32 award the reasonable costs of enforcement against the  
33 responsible agency, including reasonable attorney fees.

34 Section 2. This act shall take effect upon becoming a law.

35  
36 ===== T I T L E A M E N D M E N T =====

37 And the title is amended as follows:

38 Delete everything before the enacting clause  
39 and insert:



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40                   A bill to be entitled  
41           An act relating to public records; amending s. 119.12,  
42           F.S.; requiring a complainant to timely provide  
43           written notice of a public records request in order to  
44           be entitled to the reasonable costs of enforcement,  
45           including attorney fees, in certain civil actions for  
46           enforcement of ch. 119, F.S.; providing that the award  
47           of such attorney fees is within the discretion of the  
48           court; specifying factors for a court to consider in  
49           determining whether an agency unlawfully refused to  
50           permit a public record to be inspected or copied;  
51           authorizing a court to assess and award attorney fees  
52           against a complainant if certain conditions exist;  
53           specifying circumstances under which a court must  
54           assess and award the reasonable costs of enforcement  
55           against an agency; providing an effective date.