

By the Committee on Community Affairs; and Senator Steube

578-02148-17

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1 A bill to be entitled  
 2 An act relating to public records; amending s. 119.12,  
 3 F.S.; requiring a complainant to timely provide  
 4 written notice of a public records request in order to  
 5 be entitled to the reasonable costs of enforcement,  
 6 including attorney fees, in certain civil actions for  
 7 enforcement of ch. 119, F.S.; providing that the award  
 8 of such attorney fees is within the discretion of the  
 9 court; specifying factors for a court to consider in  
 10 determining whether an agency unlawfully refused to  
 11 permit a public record to be inspected or copied;  
 12 authorizing a court to assess and award attorney fees  
 13 against a complainant if certain conditions exist;  
 14 specifying circumstances under which a court must  
 15 assess and award the reasonable costs of enforcement  
 16 against an agency; providing an effective date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20 Section 1. Section 119.12, Florida Statutes, is amended to  
 21 read:

22 119.12 Attorney ~~Attorney's~~ fees.—

23 (1) If a civil action is filed against an agency to enforce  
 24 ~~the provisions of~~ this chapter and ~~if~~ the court determines that  
 25 the complainant provided written notice of the public records  
 26 request to the agency's custodian of public records at least 5  
 27 business days before filing the civil action and the ~~such~~ agency  
 28 unlawfully refused to permit a public record to be inspected or  
 29 copied, the court may ~~shall~~ assess and award, against the

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30 responsible agency ~~responsible~~, the reasonable costs of  
31 enforcement, including reasonable attorney ~~attorneys'~~ fees.

32 (2) (a) In determining whether the responsible agency  
33 unlawfully refused to permit a public record to be inspected or  
34 copied, the court shall consider if the request to inspect or  
35 copy the public record was made in bad faith or was made to  
36 harass the agency or to cause a violation of this chapter and if  
37 the responsible agency responded in good faith to the request to  
38 inspect or copy the records.

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

42 (c) If the complainant shows by the preponderance of the  
43 evidence that the agency intentionally or willfully refused to  
44 permit a public record listed in the notice to be inspected or  
45 copied, the court shall, after making such a finding, assess and  
46 award the reasonable costs of enforcement against the  
47 responsible agency, including reasonable attorney fees.

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