

MAINE STATE LEGISLATURE

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L.D. 1087

Date: 6/9/15

(Filing No. H-360)

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STATE OF MAINE

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HOUSE OF REPRESENTATIVES

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127TH LEGISLATURE

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FIRST REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 748, L.D. 1087, Bill, "An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Response Deadlines and Appeals"

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Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

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Sec. 1. 1 MRSA §408-A, sub-§4, as amended by PL 2013, c. 350, §2, is further amended to read:

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4. Refusals; denials. If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide, within 5 working days of the receipt of the request for inspection or copying, written notice of the denial, stating the reason for the denial, ~~within 5 working days of the receipt of the request for inspection or copying, or the expectation that the request will be denied in full or in part following a review.~~ Failure to comply with this subsection is considered failure to allow inspection or copying and is subject to appeal as provided in section 409.

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Sec. 2. 1 MRSA §409, sub-§1, as repealed and replaced by PL 2013, c. 350, §3, is amended to read:

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1. Records. Any person aggrieved by a refusal or denial to inspect or copy a record or the failure to allow the inspection or copying of a record under section 408-A may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to any the Superior Court within the State as a trial de novo for the county where the person resides or the agency has its principal office. The agency or official shall file ~~an answer~~ a statement of position explaining the basis for denial within 14 calendar days of service of the appeal. If a court, after a ~~trial de novo review, with taking of testimony and other evidence as determined necessary,~~ determines such refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.'

ROFS

COMMITTEE AMENDMENT "A" to H.P. 748, L.D. 1087

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SUMMARY

This amendment clarifies the wording of the starting point of the 5-day period within which a written notice of denial of a public records request must be provided.

This amendment deletes the language referring to a trial de novo, which was inadvertently retained in the bill.

This amendment strikes out the section of the bill that requires public access officers to acknowledge requests for public records within 5 working days because that proposal is included in another bill as amended.