

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 597

Short Title: Atty. Fees/Statutory Lien Actions.

(Public)

Sponsors: Senator Odom.

Referred to: Judiciary I.

April 15, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ATTORNEY'S FEES TO PREVAILING PARTIES IN ACTIONS RELATING TO STATUTORY LIENS ON REAL PROPERTY AND PAYMENT AND PERFORMANCE BONDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 44A of the General Statutes is amended by adding a new section to read:

"§ 44A-35. Attorney's fees.

In any suit brought or defended under the provisions of Article 2 or Article 3 of this Chapter, the presiding judge may allow a reasonable attorney's fee to the attorney representing the prevailing party. This attorney's fee is to be taxed as part of the court costs and be payable by the losing party upon a finding that there was an unwarranted refusal by the losing party to fully resolve the matter which constituted the basis of the suit or the basis of the defense. For purposes of this section, 'prevailing party' is a party plaintiff or third party plaintiff who obtains judgment of at least fifty percent (50%) of the monetary amount sought in a claim and/or is a party defendant or third party defendant against whom a claim is asserted which results in a judgment less than fifty percent (50%) of the amount sought in the claim defended. Notwithstanding the foregoing, in the event an offer or judgment is served in accordance with G.S. 1A-1, Rule 68, a 'prevailing party' is an offeree who obtains judgment more favorable than the last offer or is an offeror against whom judgment is rendered in an amount less favorable than the last offer."

Sec. 2. This act is effective upon ratification and applies to actions filed on or after the date of ratification.