

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 597
Judiciary I Committee Substitute Adopted 4/30/91

Short Title: Atty. Fees/Statutory Lien Actions.

(Public)

Sponsors:

Referred to:

April 15, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE ATTORNEYS' FEES TO PREVAILING PARTIES IN
3 ACTIONS RELATING TO STATUTORY LIENS ON REAL PROPERTY AND
4 PAYMENT AND PERFORMANCE BONDS.

5 The General Assembly of North Carolina enacts:

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

8 "**§ 44A-35. Attorneys' fees.**

9 In any suit brought or defended under the provisions of Article 2 or Article 3 of this
10 Chapter, the presiding judge may allow a reasonable attorneys' fee to the attorney
11 representing the prevailing party. This attorneys' fee is to be taxed as part of the court
12 costs and be payable by the losing party upon a finding that there was an unreasonable
13 refusal by the losing party to fully resolve the matter which constituted the basis of the
14 suit or the basis of the defense. For purposes of this section, 'prevailing party' is a party
15 plaintiff or third party plaintiff who obtains a judgment of at least fifty percent (50%) of
16 the monetary amount sought in a claim or is a party defendant or third party defendant
17 against whom a claim is asserted which results in a judgment of less than fifty percent
18 (50%) of the amount sought in the claim defended. Notwithstanding the foregoing, in
19 the event an offer of judgment is served in accordance with G.S. 1A-1, Rule 68, a
20 'prevailing party' is an offeree who obtains judgment in an amount more favorable than
21 the last offer or is an offeror against whom judgment is rendered in an amount less
22 favorable than the last offer."

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