

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 820

Short Title: Loser Pays Attorneys' Fees.

(Public)

Sponsors: Representatives Lemmond, McMahan; Aldridge, Arnold, Baker, Barbee, Berry, Bowie, Brawley, J. Brown, Buchanan, Cansler, Capps, Carpenter, Church, Clary, Cocklereece, Crawford, Creech, Culp, Cummings, Davis, Decker, Dickson, Dockham, Easterling, Eddins, Edwards, Ellis, Fox, Gamble, Gardner, Grady, Hayes, Hiatt, Hill, Holmes, Howard, Hurley, Ives, Justus, Kiser, Locke, McComas, McCombs, Mercer, K. Miller, Mitchell, Morgan, Nichols, Nye, Owens, Pate, Preston, Pulley, Rayfield, Redwine, Reynolds, Robinson, Russell, Sexton, Sharpe, Sherrill, Shubert, Tallent, Thompson, Tolson, Warner, Watson, Weatherly, Wilkins, C. Wilson, Wood, and Yongue.

Referred to: Rules, Calendar, and Operations of the House.

April 11, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT COSTS SHALL BE ALLOWED A PREVAILING
2 PARTY IN A CIVIL ACTION AND REASONABLE ATTORNEYS' FEES, IN
3 WHOLE OR IN PART, SHALL BE ALLOWED A PREVAILING PARTY IN A
4 CIVIL ACTION AS DIRECTED BY THE COURT.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G. S. 1A-1, Rule 54, is amended by adding a new subsection to
8 read:

9 "(d) Costs; Attorneys' Fees.

10 (1) Costs Other Than Attorneys' Fees. Except when expressly provided
11 otherwise in a statute, costs other than attorneys' fees shall be allowed as
12 of course to the prevailing party.

- 1 (2) Attorneys' Fees.
2 a. Except when expressly provided otherwise in a statute,
3 reasonable attorneys' fees, in whole or in part, shall be allowed as
4 of course to the prevailing party as directed by the court.
5 b. On the request of a party liable for attorneys' fees under
6 subdivision (2)a. of this subsection, the court shall afford an
7 opportunity for adversary submissions with respect to the motion
8 in accordance with Rule 43(e). The court may determine issues
9 of liability for fees before receiving submissions bearing on
10 issues of evaluation of services for which liability is imposed by
11 the court. The court shall find the facts and state its conclusions
12 of law as provided in Rule 52(a), and judgment shall be set forth
13 in a separate document as provided in Rule 58.
14 c. By local rule the court may establish special procedures by which
15 issues relating to attorneys' fees may be resolved without
16 extensive evidentiary hearings."

17 Sec. 2. This act becomes effective January 1, 1996, and applies to all civil
18 actions filed on or after that date.