

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE DRS35279-MH-100A (03/12)

Short Title: Civil Litigation Costs Reform Act of 2013. (Public)

Sponsors: Senator J. Davis (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW PRESIDING JUDGES IN CIVIL ACTIONS TO AWARD COSTS OR
3 ATTORNEYS' FEES UPON ISSUANCE OF WRITTEN FINDINGS OF FACT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 3 of Chapter 6 of the General Statutes is amended by adding a
6 new section to read:

7 "**§ 6-19.3. Attorneys' fees to prevailing parties.**

8 (a) General Rule. – The court may award costs, reasonable attorneys' fees, or both in
9 any civil action at the discretion of the presiding judge. When the presiding judge determines
10 that an award of attorneys' fees or costs is to be made under this section, the judge shall issue a
11 written order including findings of fact detailing the factual basis for the award.

12 (b) Records. – Counsel of record in actions subject to an award of attorneys' fees under
13 this section shall maintain accurate, up-to-date records of hours worked on the matter
14 regardless of the fee arrangement with the client. The court may decline to award fees to a
15 prevailing defendant otherwise eligible for a fee award under subsection (a) of this section or
16 may reduce the fee award should it find that the defendant's costs are excessive, speculative, or
17 not adequately documented.

18 (c) Statutory Exceptions. – This section does not apply when a specific statute
19 otherwise addresses an award of attorneys' fees, except that G.S. 6-21.1 shall apply
20 concurrently with this section."

21 SECTION 2. G.S. 6-21.5 reads as rewritten:

22 "**§ 6-21.5. Attorney's fees in certain nonjusticiable cases.**

23 In any ~~civil action~~, special proceeding, or estate or trust proceeding, the court, upon motion
24 of the prevailing party, may award a reasonable attorney's fee to the prevailing party if the court
25 finds that there was a complete absence of a justiciable issue of either law or fact raised by the
26 losing party in any pleading. The filing of a general denial or the granting of any preliminary
27 motion, such as a motion for judgment on the pleadings pursuant to G.S. 1A-1, Rule 12, a
28 motion to dismiss pursuant to G.S. 1A-1, Rule 12(b)(6), a motion for a directed verdict
29 pursuant to G.S. 1A-1, Rule 50, or a motion for summary judgment pursuant to G.S. 1A-1,
30 Rule 56, is not in itself a sufficient reason for the court to award attorney's fees, but may be
31 evidence to support the court's decision to make such an award. A party who advances a claim
32 or defense supported by a good faith argument for an extension, modification, or reversal of
33 law may not be required under this section to pay attorney's fees. The court shall make findings
34 of fact and conclusions of law to support its award of attorney's fees under this section."

35 SECTION 3. This act becomes effective October 1, 2013, and applies to civil
36 actions filed on or after that date.



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