

GENERAL ASSEMBLY OF NORTH CAROLINA
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Short Title: Business Court Cases/Fee.

(Public)

Sponsors:

Referred to:

March 16, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE ASSIGNMENT OF SPECIAL SUPERIOR
2 COURT JUDGES TO HEAR COMPLEX BUSINESS CASES, TO CLARIFY THE
3 PROCEDURE FOR ASSIGNING COMPLEX BUSINESS CASES, TO
4 AUTHORIZE A LARGER FEE FOR COMPLEX BUSINESS CASES, AND TO
5 CHANGE THE DATE DISTRICT COURT JUDGES TAKE OFFICE.
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7 The General Assembly of North Carolina enacts:
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9 **PART I. BUSINESS COURT JUDGES AND FEES.**

10 **SECTION 1.1.** Article 7 of Chapter 7A of the General Statutes is amended
11 by adding a new section to read:

12 **"§ 7A-45.3. Superior court judges designated for complex business cases.**

13 The Chief Justice may exercise the authority under rules of practice prescribed
14 pursuant to G.S. 7A-34 to designate one or more of the special superior court judges
15 authorized by G.S. 7A-45.1 to hear and decide complex business cases as prescribed by
16 the rules of practice. Any judge so designated shall be known as a Business Court Judge
17 and shall preside in the Business Court. If there is more than one business court judge,
18 the Chief Justice may designate one of them as the Senior Business Court Judge. If there
19 is no designation by the Chief Justice, the judge with the longest term of service on the
20 court shall serve as Senior Business Court Judge until the Chief Justice makes an
21 appointment to the position."

22 **SECTION 1.2.** G.S. 7A-305(a) reads as rewritten:

23 "(a) In every civil action in the superior or district court, except for actions
24 brought under Chapter 50B of the General Statutes, the following costs shall be
25 assessed:

- 1 (1) For the use of the courtroom and related judicial facilities, the sum of
2 twelve dollars (\$12.00) in cases heard before a magistrate, and the sum
3 of sixteen dollars (\$16.00) in district and superior court, to be remitted
4 to the county in which the judgment is rendered, except that in all
5 cases in which the judgment is rendered in facilities provided by a
6 municipality, the facilities fee shall be paid to the municipality. Funds
7 derived from the facilities fees shall be used in the same manner, for
8 the same purposes, and subject to the same restrictions, as facilities
9 fees assessed in criminal actions.
- 10 (2) For support of the General Court of Justice, the sum of sixty-nine
11 dollars (\$69.00) in the superior court, except that if a case is
12 assigned to a special superior court judge as a complex business case
13 under G.S. 7A-45.3, an additional two hundred dollars (\$200.00) shall
14 be paid upon its assignment, and the sum of fifty-four dollars (\$54.00)
15 in the district court except that if the case is assigned to a magistrate
16 the sum shall be forty-three dollars (\$43.00). Sums collected under this
17 subdivision shall be remitted to the State Treasurer. The State
18 Treasurer shall remit the sum of one dollar and five cents (\$1.05) of
19 each fee collected under this subdivision to the North Carolina State
20 Bar for the provision of services described in G.S. 7A-474.4, and
21 ninety-five cents (\$.95) of each fee collected under this subdivision to
22 the North Carolina State Bar for the provision of services described in
23 G.S. 7A-474.19."
24

25 PART II. ASSIGNMENT OF COMPLEX BUSINESS CASES.

26 SECTION 2. Article 7 of Chapter 7A of the General Statutes is amended by
27 adding a new section to read:

28 "§ 7A-45.4. Designation of mandatory complex business cases.

29 (a) A mandatory complex business case is an action that involves a material issue
30 related to:

- 31 (1) The law governing corporations, except charitable and religious
32 organizations qualified under G.S. 55A-1-40(4) on the grounds of
33 religious purpose, partnerships, limited liability companies, and
34 limited liability partnerships, including issues concerning governance,
35 involuntary dissolution of a corporation, mergers and acquisitions,
36 breach of duty of directors, election or removal of directors,
37 enforcement or interpretation of shareholder agreements, and
38 derivative actions.
- 39 (2) Securities law, including proxy disputes and tender offer disputes.
- 40 (3) Antitrust law, except claims based solely on unfair competition under
41 G.S. 75-1.1.
- 42 (4) State trademark or unfair competition law, except claims based solely
43 on unfair competition under G.S. 75-1.1.
- 44 (5) Intellectual property law, including software licensing disputes.

1 (6) The Internet, electronic commerce, and biotechnology.

2 (b) Any party may designate a civil action as a mandatory complex business case
3 by filing a Notice of Designation in the Superior Court in which the action has been
4 filed and simultaneously serving the notice on each opposing party or counsel and on
5 the Special Superior Court Judge for Complex Business Cases who is then the senior
6 Business Court Judge. A copy of the notice shall also be sent contemporaneously by e-
7 mail or facsimile transmission to the Chief Justice of the Supreme Court for approval of
8 the designation of the action as a mandatory complex business case and assignment to a
9 specific Business Court Judge.

10 (c) The Notice of Designation shall, in good faith and based on information
11 reasonably available, succinctly state the basis of the designation and include a
12 certificate by or on behalf of the designating party that the civil action meets the criteria
13 for designation as a mandatory complex business case pursuant to subsection (a) of this
14 section.

15 (d) The Notice of Designation shall be filed:

16 (1) By the plaintiff or third-party plaintiff contemporaneously with the
17 filing of the complaint or third-party complaint in the action.

18 (2) By any intervenor when the intervenor files a motion for permission to
19 intervene in the action.

20 (3) By any defendant or any other party within 30 days of receipt of
21 service of the pleading seeking relief from the defendant or party.

22 (e) Within 30 days after service of the Notice of Designation, any other party
23 may, in good faith, file and serve an opposition to the designation of the action as a
24 mandatory business case. Based on the opposition or ex mero motu, the Business Court
25 Judge may determine that the action should not be designated as a mandatory complex
26 business case. If a party disagrees with the decision, the party may appeal to the Chief
27 Justice of the Supreme Court.

28 (f) Once a designation is filed under subsection (d) of this section, and after
29 preliminary approval by the Chief Justice, a case shall be designated and administered a
30 complex business case. All proceedings in the action shall be before the Business Court
31 Judge to whom it has been assigned unless and until an order has been entered under
32 subsection (e) of this section ordering that the case not be designated a mandatory
33 complex business case or the Chief Justice revokes approval. If complex business case
34 status is revoked or denied, the action shall be treated as any other civil action, unless it
35 is designated as an exceptional civil case or a discretionary complex business case
36 pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District
37 Courts."

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39 **PART III. DISTRICT COURT JUDGE TERM.**

40 **SECTION 3.1.** G.S. 7A-140 reads as rewritten:

41 **"§ 7A-140. Number; election; term; qualification; oath.**

42 There shall be at least one district judge for each district. Each district judge shall be
43 elected by the qualified voters of the district court district in which he or she is to serve
44 at the time of the election for members of the General Assembly. The number of judges

1 for each district shall be determined by the General Assembly. Each judge shall be a
 2 resident of the district for which elected, and shall serve a term of four years, beginning
 3 on the first ~~Monday in December~~ day in January next following ~~his~~ after election.

4 Each district judge shall devote his or her full time to the duties of ~~his~~ the office. He
 5 or she shall not practice law during ~~his~~ the term, nor shall he or she during such term be
 6 the partner or associate of any person engaged in the practice of law.

7 Before entering upon his or her duties, each district judge, in addition to other oaths
 8 prescribed by law, shall take the oath of office prescribed for a judge of the General
 9 Court of Justice."

10 **SECTION 3.2.** The table entries in G.S. 163-1 for the Justices and Judges
 11 read as rewritten:

12 "OFFICE	JURISDICTION	DATE OF ELECTION	TERM OF OFFICE
13 ...			
14 Justices and 15 Judges of the 16 Appellate 17 Division	State	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Eight years, from first day of January next after election
21 Judges of the 22 superior 23 courts	Superior Court District	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Eight years, from first day of January next after election
28 Judges of the 29 district 30 courts	District court district	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Four years, from the first Monday <u>day in January next</u> after election
36"			

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 38 **PART IV. EFFECTIVE DATES.**

39 **SECTION 4.** Sections 1.1 and 1.2 of this act become effective January 1,
 40 2006, and apply to fees assessed or collected on or after that date. Section 2 becomes
 41 effective January 1, 2006, and applies to cases filed on or after that date. Sections 3.1
 42 and 3.2 of this act are effective when they become law. Judges elected in 2006 and
 43 thereafter take office accordingly, and as provided by Section 10 of Article VI of the
 44 North Carolina Constitution and G.S. 128-7, those in office on the first Monday in

- 1 December of 2006 or 2008 shall continue until their successors' terms begin and are
- 2 duly qualified.