

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 593

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

Sponsors: Senator J. Davis (Primary Sponsor).

Referred to: Judiciary I.

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO ALLOW PRESIDING JUDGES IN CIVIL ACTIONS TO AWARD COSTS OR ATTORNEYS' FEES UPON ISSUANCE OF WRITTEN FINDINGS OF FACT.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

