

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 290

Short Title: Prevailing Party Awarded Attorneys' Fees. (Public)

Sponsors: Representatives LaRoque; Almond Jr., Blackwood, Starnes, and Steen.

Referred to: Judiciary II.

February 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH AS THE GENERAL RULE IN CIVIL ACTIONS THAT
3 THE COURT AWARD ATTORNEYS' FEES TO THE PREVAILING PARTY.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 19 of Chapter 1 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 1-186.1. Attorneys' fees awarded to prevailing party.**

8 (a) General Rule. – The prevailing party is entitled to receive an award of
9 attorneys' fees from the nonprevailing party with respect to, and only to the extent that
10 party prevails on, any claim advanced during the litigation, except that the sum of the
11 attorneys' fees awarded under this section shall not exceed the attorneys' fees of the
12 nonprevailing party with regard to the claim. If the nonprevailing party received
13 services under a contingent fee agreement, the sum of the attorneys' fees awarded under
14 this section shall not exceed the reasonable value of those services.

15 (b) Discretion. – The court may, in its discretion, limit the fees recovered under
16 subsection (a) of this section if it considers payment of these fees unjust.

17 (c) Records. – Counsel of record in actions subject to an award of attorneys' fees
18 under this section shall maintain accurate, up-to-date records of hours worked on the
19 matter regardless of the fee arrangement with the client.

20 (d) Statutory Exceptions. – This section does not apply when a specific statute
21 otherwise addresses an award of attorneys' fees."

22 SECTION 3. This act becomes effective October 1, 2005, and applies to
23 actions filed on or after that date.