
Judiciary Committee

HB 3035

Title: An act relating to statutory costs.

Brief Description: Changing provisions regarding statutory costs.

Sponsors: Representatives Williams, Rodne and Campbell.

Brief Summary of Bill

- | |
|---|
| <ul style="list-style-type: none">• Allows a plaintiff his or her costs if, after an action is filed, the defendant offers and the plaintiff accepts full or partial payment, and the plaintiff gave the defendant prior written notice that the defendant may be liable for costs despite full or partial payment. |
|---|

Hearing Date: 1/30/06

Staff: Trudes Tango (786-7384).

Background:

Generally in civil actions, attorneys' fees are not recoverable by the prevailing party unless permitted by contract, statute, or some recognized ground in equity. However, there are statutes that allow a prevailing party to recover his or her expenses in the action, which are called "costs."

Costs include filing fees, service of process fees, reasonable expenses incurred in obtaining records, witness fees, and statutory attorney fees. The statutory attorneys' fee is generally \$200. However, in district court cases, the prevailing party is not entitled to the statutory attorneys' fee if the judgment is for less than \$50. If the judgment is at least \$50 but less than \$200, the statutory attorney fee is \$125.

Some of the statutes relating to costs are designed to encourage early settlement between the parties. A defendant is entitled to costs if, before the action is commenced, the defendant offered to pay the full amount owed to the plaintiff and the plaintiff refused the offer. A defendant is also entitled to costs if, after an action is commenced, the defendant deposits with the court the amount the defendant believes is owed plus costs, and the plaintiff refuses to accept it and subsequently recovers a lesser amount offered.

Summary of Bill:

A plaintiff is the prevailing party and therefore entitled to costs if, after an action is commenced, the defendant offers and the plaintiff accepts full or partial payment and the plaintiff gave the defendant prior written notice before the offer was made that the defendant may still be liable for

costs regardless of full or partial payment. The court shall enter a judgment for costs, except those costs that are paid before entry of judgment.

The same provision applies to cases in district court. However, the plaintiff is not entitled to the statutory attorneys' fees portion of costs unless the amount asked for in the complaint, exclusive of costs, is \$50 or more. In a case where the amount asked for is at least \$50 but less than \$200, the statutory attorneys' fees is \$125.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.