

House Bill 1387

By: Representatives Heard of the 70th, Post 3, Crawford of the 91st, Sheldon of the 71st, Post 2, Marin of the 66th, and Floyd of the 69th, Post 2

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, so
2 as to provide for appeals from awards of attorney's fees or expenses of litigation; to amend
3 Chapter 15 of Title 9 of the Official Code of Georgia Annotated, relating to court and
4 litigation costs in civil actions, so as to provide for attorney's fees and expenses of litigation
5 to the prevailing party in civil cases; to amend Chapter 6 of Title 13 of the Official Code of
6 Georgia Annotated, relating to damages and costs generally, so as to allow attorney's fees
7 and expenses of litigation in contract cases; to provide for related matters; to provide for an
8 effective date and applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended
12 by striking paragraph (10) of subsection (a) of Code Section 5-6-35, relating to cases
13 requiring application for appeal and related procedures, in its entirety and inserting in its
14 place the following:

15 "(10) Appeals from awards of attorney's fees or expenses of litigation under Code
16 Section 9-15-14 or Code Section 9-15-16; and".

17 style="text-align:center">**SECTION 2.**

18 Chapter 15 of Title 9 of the Official Code of Georgia Annotated, relating to court and
19 litigation costs in civil actions, is amended by adding after Code Section 9-15-15 a new Code
20 section to read as follows:

21 "9-15-16.

22 (a) Except as otherwise provided by law, in any civil action in any court of record of this
23 state, reasonable and necessary attorney's fees and expenses of litigation shall be awarded
24 to the prevailing party or parties, unless the court orders otherwise for good cause shown.

25 In a case where the damages are apportioned between or among the parties, the fees and

1 expenses shall also be apportioned by the court, unless the court orders otherwise for good
2 cause shown. Such award shall be made upon final disposition of a case.

3 (b) Attorney's fees and expenses of litigation awarded under this Code section shall not
4 exceed amounts which are reasonable and necessary for defending or asserting the rights
5 of a party. Attorney's fees and expenses of litigation incurred in obtaining an order of
6 court pursuant to this Code section may also be assessed by the court and included in its
7 order.

8 (c) Attorney's fees and expenses under this Code section may be requested by motion at
9 any time during the course of the action but not later than 45 days after the final disposition
10 of the action.

11 (d) An award of reasonable and necessary attorney's fees or expenses of litigation under
12 this Code section shall be determined by the court without a jury and shall be made by an
13 order of court which shall constitute and be enforceable as a money judgment."

14 SECTION 3.

15 Chapter 6 of Title 13 of the Official Code of Georgia Annotated, relating to damages and
16 costs generally, is amended by striking Code Section 13-6-11, relating to recovery of
17 expenses of litigation generally, in its entirety and inserting in its place the following:

18 "13-6-11.

19 ~~The~~ Except as provided in Code Section 9-15-16, the expenses of litigation generally shall
20 not be allowed as a part of the damages; but where the plaintiff has specially pleaded and
21 has made prayer therefor and where the defendant has acted in bad faith, has been
22 stubbornly litigious, or has caused the plaintiff unnecessary trouble and expense, the jury
23 may allow them."

24 SECTION 4.

25 This Act shall become effective on July 1, 2003, and shall apply with respect to actions filed
26 on or after that date.

27 SECTION 5.

28 All laws and parts of laws in conflict with this Act are repealed.