

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1089\*  
Committee Substitute Favorable 5/22/96

Short Title: Workers' Comp. Pauper Appeals.

(Public)

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Sponsors:

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Referred to:

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May 14, 1996

A BILL TO BE ENTITLED

1 AN ACT TO REMOVE LANGUAGE REQUIRING AN ATTORNEY'S OPINION  
2 AND WRITTEN STATEMENT IN APPEALS BY INDIGENTS FROM THE  
3 INDUSTRIAL COMMISSION TO THE NORTH CAROLINA COURT OF  
4 APPEALS AND TO CLARIFY THE PROCEDURE FOR SUCH INDIGENT  
5 APPEALS.  
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7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 97-86 reads as rewritten:

9 **"§ 97-86. Award conclusive as to facts; appeal; certified questions of law.**

10 The award of the Industrial Commission, as provided in G.S. 97-84, if not reviewed in  
11 due time, or an award of the Commission upon such review, as provided in G.S. 97-85,  
12 shall be conclusive and binding as to all questions of fact; but either party to the dispute  
13 may, within 30 days from the date of such award or within 30 days after receipt of notice  
14 to be sent by registered mail or certified mail of such award, but not thereafter, appeal  
15 from the decision of said Commission to the Court of Appeals for errors of law under the  
16 same terms and conditions as govern appeals from the superior court to the Court of  
17 Appeals in ordinary civil actions. The procedure for the appeal shall be as provided by  
18 the rules of appellate procedure.

1 The Industrial Commission of its own motion may certify questions of law to the  
2 Court of Appeals for decision and determination by said Court. In case of an appeal from  
3 the decision of the Commission, or of a certification by said Commission of questions of  
4 law, to the Court of Appeals, said appeal or certification shall operate on a supersedeas  
5 except as provided in G.S. 97-86.1, and no employer shall be required to make payment  
6 of the award involved in said appeal or certification until the questions at issue therein  
7 shall have been fully determined in accordance with the provisions of this Article. If the  
8 employer is a noninsurer, then the appeal of such employer shall not act as a supersedeas  
9 and the plaintiff in such case shall have the same right to issue execution or to satisfy the  
10 award from the property of the employer pending the appeal as obtains to the successful  
11 party in an action in the superior court.

12 When any party to an appeal from an award of the Commission is unable, by reason  
13 of his poverty, to make the deposit or to give the security required by law for said appeal,  
14 any member of the Commission or any deputy commissioner ~~may, in their discretion, shall~~  
15 enter an order allowing said party to appeal from the award of the Commission without  
16 giving security therefor. The party appealing from the judgment shall, within 30 days  
17 from the filing of the appeal from the award, make an affidavit that he is unable by reason  
18 of his poverty to give the security required by law, ~~and that he is advised by a practicing~~  
19 ~~attorney that there is error in the matters of law in the award of the Commission in said case. The~~  
20 ~~affidavit must be accompanied by a written statement from a practicing attorney of North~~  
21 ~~Carolina that he has examined the affiant's case and is of the opinion that the decision of the~~  
22 ~~Commission in said case is contrary to law.~~ law. The request shall be passed upon and  
23 granted or denied by a member of the Commission or deputy commissioner within 20  
24 days from receipt of the affidavit ~~and letter as specified above."~~

25 Sec. 2. This act becomes effective October 1, 1996, and applies to all appeals  
26 by indigents from an order of the Industrial Commission on or after that date.