GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-106
SENATE BILL 693

AN ACT TO PROVIDE, UPON THE MOTION OF A DEFENDANT MADE AFTER ISSUANCE OF SUMMONS, THAT A PLAINTIFF IS NOT ALWAYS REQUIRED TO POST A PROSECUTION BOND, PROVIDE SECURITY, OR SHOW THE PLAINTIFF IS SUING AS AN INDIGENT BUT TO PROVIDE THAT THE PLAINTIFF MAY BE SO REQUIRED BY THE CLERK OR JUDGE UPON A SHOWING OF GOOD CAUSE BY THE DEFENDANT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-109 reads as rewritten:

"**§ 1-109. Bond required of plaintiff for costs.**

At any time after the issuance of summons, the clerk or judge, upon motion of the defendant, ~~shall~~ may, upon a showing of good cause, require the plaintiff to do one of the following things and the failure to comply with such order within 30 days from the date thereof shall constitute grounds for dismissal of such civil action or special proceeding:

(1) Give an undertaking with sufficient surety in the sum of two hundred dollars, with the condition that it will be void if the plaintiff pays the defendant all costs which the latter recovers of him in the action.

(2) Deposit two hundred dollars ($200.00) with him as security to the defendant for these costs, in which event the clerk must give to the plaintiff and defendant all costs which the latter recovers of him in the action.

(3) File a copy of an order from a superior or district court judge or clerk of a superior court authorizing the plaintiff to sue as an indigent.

The requirements of this section shall not apply to the State of North Carolina or any of its agencies, commissions or institutions, or to counties, drainage districts, cities and towns; provided, further, that the State of North Carolina or any of its agencies, commissions or institutions, and counties, drainage districts, cities and towns may institute civil actions and special proceedings without being required to give a prosecution bond or make deposit in lieu of bond."

Section 2. This act becomes effective October 1, 1999, and applies to all causes of action commenced on or after that date.

In the General Assembly read three times and ratified this the 17th day of May, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 2:02 p.m. this 27th day of May, 1999