

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 416

Short Title: Attorneys' Fees for Homes.

(Public)

Sponsors: Senator Soles.

Referred to: Judiciary I.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE COURT TO AWARD REASONABLE ATTORNEYS' FEES TO PREVAILING PLAINTIFFS IN CLAIMS INVOLVING HOME CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 6 of the General Statutes is amended by adding a new section to read:

"§ 6-21.6. Attorneys' fees in claims involving home construction.

In any civil claim brought by a homeowner or homeowners association against a general contractor, whether or not licensed under Article 1 of Chapter 87 of the General Statutes, for fraud, unfair or deceptive commercial act or practice, negligence, breach of contract, breach of express warranty or breach of implied warranty arising out of the construction or alteration of one or more residential dwelling units in this State, the court shall award reasonable attorneys' fees to the homeowner or homeowners association if that party substantially prevails in its claim. Such attorneys' fees shall be based on the actual time expended by counsel for the homeowner or homeowners association unless the court determines as a matter of fact that specific time expended was not reasonably necessary to prevail in the claim. As used in this section, the terms 'homeowner' and 'homeowners association' include one who owns the dwelling unit or units for his own occupancy or for any other purpose. The right to recover under this section shall not be affected by the sale of the dwelling unit or units which are the basis for bringing the civil claim."

Sec. 2. This act is effective upon ratification and applies to claims filed on or after that date.