

COMMITTEE FOR STUDY OF
HOUSE BILL 1122

LEGISLATIVE COUNCIL STUDY NO. 10
(By House Resolution ratified 25 June 1963)

COMMITTEE FOR STUDY OF
1963 HOUSE BILL 1122

Chairman : Senator Staton P. Williams
331 North Ninth Street
Albemarle, North Carolina

Acting : Senator Carl V. Venters
Chairman : Jacksonville
North Carolina

Ex-Officio : T. Clarence Stone, President of the Senate
H. Clifton Blue, Speaker of House of Representatives
Hugh S. Johnson, Jr., Chairman of the Council

Members from: Representative Jyles J. Coggins
the Council : Representative L. Sneed High
Representative Hollis M. Owens, Jr.
Senator Thomas J. White

Others : Representative Allen C. Barbee

Introduced by: Representative Barbee
Adopted : June 25, 1963

A RESOLUTION AUTHORIZING THE LEGISLATIVE COUNCIL TO MAKE A STUDY OF HOUSE BILL 1122 PROVIDING THAT FEES OF ATTORNEYS REPRESENTING UNSUCCESSFUL CAVEATORS SHALL NOT BE TAXED AGAINST DECEDENTS' ESTATES AND MAKE RECOMMENDATIONS TO THE 1965 GENERAL ASSEMBLY.

WHEREAS, House Bill 1122 providing that no fees of attorneys representing unsuccessful caveators shall be allowed and taxed against the estate, or the representative of the estate, of any decedent, or against the propounders of the will of any decedent, was introduced by Representative Barbee on May 27, 1963; and

WHEREAS, House Bill 1122 was referred to Committee on Judiciary No. 1 of the House of Representatives and was considered by that Committee to have merit but to need further study; and

WHEREAS, it is felt that sufficient time does not remain in the 1963 Session of the General Assembly to give the bill proper study and consideration to permit it to pass through the legislature prior to adjournment; NOW, THEREFORE, Be it resolved by the House of Representatives of the General Assembly of North Carolina:

Section 1. The Legislative Council is hereby authorized to make a study of House Bill 1122 to the end that it may make recommendations to the 1965 General Assembly concerning the desirability of enactment of legislation by the

1965 General Assembly of legislation prohibiting fees of attorneys representing unsuccessful caveators being allowed and taxed against the estate, or the representative of the estate, of any decedent, or against the propounder of the will of any decedent.

Sec. 2. This Resolution shall become effective upon its adoption.

House Bill 1122

Introduced by Representative Barbee

A BILL TO BE ENTITLED AN ACT TO AMEND G. S. 6-21 TO EXCLUDE FEES OF ATTORNEYS REPRESENTING UNSUCCESSFUL CAVEATORS FROM COSTS TAXED AGAINST DECEDENTS' ESTATES.

The General Assembly of North Carolina do enact:

Section 1. G.S. 6-21 is amended by adding the following proviso at the end of the section:

"Provided, however, no fees of attorneys representing unsuccessful caveators shall be allowed and taxed against the estate, or the representative of the estate, of any decedent, or against the propounders of the will of any decedent."

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect from and after its ratification.

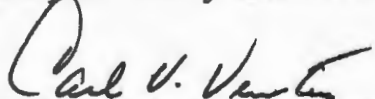
(Not reported by House Committee)

Pursuant to House Resolution authorizing the Legislative Council to make a study of H. B. 1122, providing that fees of attorneys representing unsuccessful caveators shall not be taxed against decedents' estates and make recommendations to the 1965 General Assembly, the Committee of the Legislative Council, after careful study and consideration, makes the following recommendation:

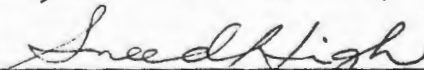
That G.S. 6-21.2, as the same presently appears in the 1963 Cumulative Supplement to Volume 1B of the General Statutes, be amended by striking out the period at the end of the present subsection (2), and inserting a semi-colon in lieu of the period, and adding thereto the following language: "provided, however, that in any caveat proceeding under this subsection, if the court finds as a fact that the proceeding is frivolous or without merit the court shall not tax against the estate of the decedent, as a part of the costs, attorneys' fees for the attorneys for the caveators."

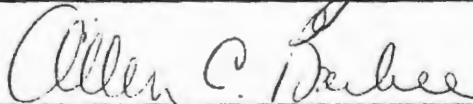
Attached hereto is a copy of the proposed bill embodying the recommendation of the subcommittee.

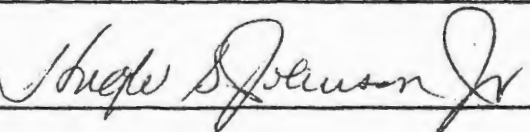
Respectfully submitted,



Senator Carl V. Venters, Chairman







January 29, 1965

INTRODUCED BY:

Representative Barbee

Referred to:

1 A BILL TO BE ENTITLED AN ACT RELATING TO ATTORNEYS' FEES IN
2 PROCEEDINGS TO CAVEAT WILLS.

3 The General Assembly of North Carolina do enact:

4 Section 1. Subsection 2 of G.S. 6-21, as the same
5 presently appears in the 1963 Cumulative Supplement to Volume
6 1B of the General Statutes, is hereby amended by striking out
7 the period at the end of the present Subsection 2, inserting
8 a semicolon in lieu of the period, and adding thereto the
9 following language: "provided, however, that in any caveat
10 proceeding under this subsection, if the court finds as a fact
11 that the proceeding is frivolous or without merit, the court
12 shall not tax against the estate of the decedent, as a part of
13 the costs, attorneys' fees for the attorneys for the caveators."

14 Sec. 2. This Act shall not apply to pending
15 litigation.

16 Sec. 3. All laws and clauses of laws in conflict
17 with this Act are hereby repealed.

18 Sec. 4. This Act shall become effective upon its
19 ratification.

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