

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 768*

Short Title: Workers' Comp./Third Party Actions.

(Public)

Sponsors: Senator Miller.

Referred to: Judiciary II.

April 6, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW JUDICIAL DISCRETION IN DETERMINING THE AMOUNT
OF SUBROGATION OF EMPLOYERS' LIENS IN ACTIONS AGAINST THIRD
PARTIES UNDER THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-10.2(j) reads as rewritten:

"(j) Notwithstanding any other subsection in this section, in the event that a judgment is obtained ~~which is insufficient to compensate the subrogation claim of the Workers' Compensation Insurance Carrier,~~ by the employee in an action against a third party, or in the event that a settlement has been agreed upon by the employee and the third party, either party may apply to the resident superior court judge of the county in which the cause of action arose, where the injured employee resides or the presiding judge before whom the cause of action is pending, to determine the subrogation amount. After notice to the employer and the insurance carrier, after an opportunity to be heard by all interested parties, and with or without the consent of the employer, the judge shall determine, in his discretion, the amount, whether based on accrued or prospective compensation, if any, of the employer's lien and the amount of cost of the third-party litigation to be shared between the employee and employer. If the matter is pending in the federal district court such determination may be made by a federal district court judge of that division."

1 Section 2. This act is effective when it becomes law and applies to judgments
2 entered against third parties on or after that date pursuant to G.S. 97-10.2.