

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013**

S

1

**SENATE BILL 293\***

Short Title: WC/Subrogation/Employer Consent. (Public)

Sponsors: Senators Parmon and Brunstetter (Primary Sponsors).

Referred to: Commerce.

March 14, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE WORKERS' COMPENSATION LAWS TO REQUIRE  
3 EMPLOYER CONSENT FOR THE REDUCTION BY MORE THAN FIFTY PERCENT  
4 OF AN EMPLOYER'S SUBROGATION LIEN.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 97-10.2(j) reads as rewritten:

7 "(j) Notwithstanding any other subsection in this section, in the event that a judgment is  
8 obtained by the employee in an action against a third party, or in the event that a settlement has  
9 been agreed upon by the employee and the third party, either party may apply to the resident  
10 superior court judge of the county in which the cause of action arose or where the injured  
11 employee resides, or to a presiding judge of either district, to determine the subrogation  
12 amount. After notice to the employer and the insurance carrier, after an opportunity to be heard  
13 by all interested parties, ~~and with or without the consent of the employer,~~ the judge shall  
14 determine, in his or her discretion, the amount, ~~if any,~~ of the employer's lien, whether based on  
15 accrued or prospective workers' compensation benefits, and the amount of cost of the  
16 third-party litigation to be shared between the employee and employer. The judge shall  
17 consider the anticipated amount of prospective compensation the employer or workers'  
18 compensation carrier is likely to pay to the employee in the future, the net recovery to plaintiff,  
19 the likelihood of the plaintiff prevailing at trial or on appeal, the need for finality in the  
20 litigation, and any other factors the court deems just and reasonable, in determining the  
21 appropriate amount of the employer's lien. However, the employer's lien shall not be reduced  
22 by more than fifty percent (50%) without the consent of the employer. If the matter is pending  
23 in the federal district court such determination may be made by a federal district court judge of  
24 that division."

25 **SECTION 2.** This act is effective when it becomes law.

