

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 821

Short Title: Award Atty. Fees in Certain Land Use Cases. (Public)

Sponsors: Representative McNeely.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 1, if favorable, Local Government, if favorable, Rules, Calendar, and Operations of the House

May 5, 2021

A BILL TO BE ENTITLED

AN ACT REQUIRING THE AWARD OF REASONABLE ATTORNEYS' FEES AND COSTS WHENEVER A PARTY PREVAILS AGAINST A COUNTY OR CITY UPON A FINDING BY THE COURT THAT THE CITY OR COUNTY ACTED IN A MANNER INCONSISTENT WITH ITS COMPREHENSIVE ZONING PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 6-21.7 reads as rewritten:

"§ 6-21.7. Attorneys' fees; cities or counties acting outside the scope of their authority.

(a) In any action in which a city or county is a party, upon a finding by the court that the city or county violated a statute or case law setting forth unambiguous limits on its authority, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's action. In any action in which a city or county is a party, upon finding by the court that the city or county took action inconsistent with, or in violation of, G.S. 160D-108(b) or G.S. 143-755, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the local government's failure to comply with any of those provisions. ~~In all~~ Except as provided in subsection (b) of this section, in other matters, the court may award reasonable attorneys' fees and costs to the prevailing private litigant. For purposes of this section, subsection, "unambiguous" means that the limits of authority are not reasonably susceptible to multiple constructions."

(b) Notwithstanding the provisions of subsection (a) of this section, in any action in which a city or county is a party, upon a finding by the court that the city or county took action against a party in a manner inconsistent with the provisions of its comprehensive zoning plan, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's action.

SECTION 2. This act is effective when it becomes law and applies to actions commenced on or after that date.



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