



General Assembly

January Session, 2003

Raised Bill No. 1058

LCO No. 3707

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING OFFERS OF SETTLEMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-192a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) After commencement of any civil action based upon contract or
4 seeking the recovery of money damages, whether or not other relief is
5 sought, the plaintiff may, not later than thirty days before trial, file
6 with the clerk of the court a written "offer of [judgment] settlement"
7 signed by the plaintiff or the plaintiff's attorney, directed to the
8 defendant or the defendant's attorney, offering to settle the claim
9 underlying the action and to stipulate to a [judgment] withdrawal of
10 the action for a sum certain. The "offer of settlement" shall state with
11 specificity all damages then known to the plaintiff or the plaintiff's
12 attorney upon which the action is based and shall include all related
13 and supporting documentation. The plaintiff shall file with the "offer
14 of settlement" a written certification that the plaintiff or the plaintiff's
15 attorney has provided the defendant or the defendant's attorney with
16 all such documentation. If, at any time prior to final disposition of such
17 action, the plaintiff discloses, introduces or attempts to rely upon

18 damages in an amount that exceeds the damages stated in the "offer of
19 settlement", such "offer of settlement" shall automatically become
20 invalid and the plaintiff shall not be entitled to an award of interest or
21 attorney's fees in any amount pursuant to subsection (b) of this section.
22 The plaintiff shall give notice of the offer of settlement and provide all
23 documentation related to or supporting the damages stated in the
24 "offer of settlement" to the defendant's attorney or, if the defendant is
25 not represented by an attorney, to the defendant himself or herself.
26 [Within] Not later than sixty days after being notified of the filing of
27 the "offer of [judgment] settlement" and prior to the rendering of a
28 verdict by the jury or an award by the court, the defendant or the
29 defendant's attorney may file with the clerk of the court a written
30 "acceptance of offer of [judgment] settlement" agreeing to a stipulation
31 for [judgment] withdrawal as contained in plaintiff's "offer of
32 [judgment] settlement". Upon such filing, the plaintiff shall file with
33 the clerk a motion to withdraw such action and the clerk shall [enter
34 judgment immediately on] immediately withdraw the action based
35 upon the stipulation of the parties. If the "offer of [judgment]
36 settlement" is not accepted within sixty days and prior to the rendering
37 of a verdict by the jury or an award by the court, the "offer of
38 [judgment] settlement" shall be considered rejected and not subject to
39 acceptance unless refiled. Any such "offer of [judgment] settlement"
40 and any "acceptance of offer of [judgment] settlement" shall be
41 included by the clerk in the record of the case.

42 (b) After trial, the court shall examine the record to determine
43 whether the plaintiff made an "offer of [judgment] settlement" which
44 the defendant failed to accept. If the court ascertains from the record
45 that the plaintiff has recovered an amount equal to or greater than the
46 sum certain stated in the plaintiff's "offer of [judgment] settlement", the
47 court [shall] may add to the amount so recovered [twelve] four per
48 cent annual interest on said amount, computed from the date such
49 offer was filed in actions commenced before October 1, 1981. In those
50 actions commenced on or after October 1, 1981, the interest shall be
51 computed from the date the complaint in the civil action was filed with

52 the court if the "offer of [judgment] settlement" was filed not later than
53 eighteen months from the filing of such complaint. If such offer was
54 filed later than eighteen months from the date of filing of the
55 complaint, the interest shall be computed from the date the "offer of
56 [judgment] settlement" was filed. The court may award reasonable
57 attorney's fees in an amount not to exceed three hundred fifty dollars,
58 and shall render judgment accordingly. This section shall not be
59 interpreted to abrogate the contractual rights of any party concerning
60 the recovery of attorney's fees in accordance with the provisions of any
61 written contract between the parties to the action.

62 Sec. 2. Section 52-193 of the general statutes is repealed and the
63 following is substituted in lieu thereof (*Effective October 1, 2003*):

64 In any action on contract, or seeking the recovery of money
65 damages, whether or not other relief is sought, the defendant may, not
66 later than thirty days before trial, file with the clerk of the court a
67 written notice signed by the defendant or the defendant's attorney,
68 directed to the plaintiff or the plaintiff's attorney, offering to allow the
69 plaintiff to [take judgment] settle the claim underlying the action for
70 the sum named in such notice.

71 Sec. 3. Section 52-194 of the general statutes is repealed and the
72 following is substituted in lieu thereof (*Effective October 1, 2003*):

73 In any action, the plaintiff may, within ten days after being notified
74 by the defendant of the filing of an offer of [judgment] settlement, file
75 with the clerk of the court a written acceptance of the offer signed by
76 [himself or his] the plaintiff or the plaintiff's attorney. Upon the filing
77 of the written acceptance, the court shall [render judgment against the
78 defendant as upon default for the sum so named and for the costs
79 accrued at the time of the defendant's giving the plaintiff notice of the
80 offer] record a withdrawal of the action as against the defendant. No
81 trial may be postponed because the period within which the plaintiff
82 may accept the offer has not expired, except at the discretion of the
83 court.

84 Sec. 4. Section 52-195 of the general statutes is repealed and the
85 following is substituted in lieu thereof (*Effective October 1, 2003*):

86 (a) If the plaintiff does not, within the time allowed for acceptance
87 of [the] an offer of [judgment] settlement and before the
88 commencement of the trial, file [his] the plaintiff's notice of acceptance,
89 the offer shall be deemed to be withdrawn and shall not be given in
90 evidence.

91 (b) Unless the plaintiff recovers more than the sum named in the
92 offer of [judgment] settlement, with interest from its date, [he] the
93 plaintiff shall recover no costs accruing after [he] the plaintiff received
94 notice of the filing of such offer, but shall pay the defendant's [costs
95 accruing after he received notice] actual and reasonable costs of
96 defending the action, including court costs, fees paid to expert
97 witnesses and other reasonable documented expenses. Such costs
98 [may] shall include reasonable attorney's fees in an amount not to
99 exceed three [hundred fifty] thousand dollars.

100 (c) This section shall not be interpreted to abrogate the contractual
101 rights of any party concerning the recovery of attorney's fees in
102 accordance with the provisions of any written contract between the
103 parties to the action. The provisions of this section shall not apply to
104 cases in which nominal damages have been assessed upon a hearing
105 after a default or after a demurrer has been overruled.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>

Statement of Purpose:

To revise certain provisions concerning offers of judgment in civil actions made by plaintiffs and defendants in the settlement of civil actions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]