

# 2004 SESSION

INTRODUCED

040534388

## HOUSE BILL NO. 1325

Offered January 21, 2004

A BILL to amend the Code of Virginia by adding a section numbered 8.01-424.2, relating to offer of judgment.

Patron—Marrs

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-424.2 as follows:

§ 8.01-424.2. Costs; offers of judgment or settlement.

A. At any time more than 10 days before trial, any party may serve in writing upon any other party an offer to allow judgment to be taken or an award to be entered, or to resolve the matters at issue in any other manner. If within 10 days after the service of the offer a party serves written notice that the offer is accepted, either party then may file with the court the offer and notice of acceptance, together with proof of service thereof, and the court shall enter a judgment or other order in conformity with the parties' agreement.

An offer not accepted shall be deemed rejected, and evidence of the offer's submission shall not be admissible except in a post-trial proceeding to determine costs. The fact that an offer is made but not accepted does not preclude the making of subsequent offers.

B. If an offer is rejected, and the results of trial are not more favorable to the offeree than the offer, the court may deny the offeree recovery of its post-offer costs, and the court may order the offeree to pay the offeror's costs from the time of offer. The court may enter judgment for any costs so awarded or, in an appropriate case, the court may set off the offeror's costs against any amounts recovered at trial by the offeree and enter judgment for the net amount.

C. For the purposes of this section, "costs" shall include expert witness fees; court reporter appearance fees; fees for transcripts; travel expenses for attorneys, fact witnesses and expert witnesses; fees for service of process; filing fees; and cancellation fees charged by expert witnesses.

D. A court may, in its discretion, decline to grant relief under subsection B for good cause shown.

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