

SENATE BILL No. 199

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-13-10.

Synopsis: Recovery of litigation expenses. Requires a court to award reasonable litigation expenses to the prevailing party in a civil action brought against that party by a governmental entity if the court finds that the civil action was brought by the governmental entity without substantial justification.

Effective: July 1, 2020.

Koch

January 6, 2020, read first time and referred to Committee on Judiciary.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 199

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-13-10 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]:
4 **Chapter 10. Payment of Litigation Expenses by Governmental**
5 **Entities**
6 **Sec. 1. This chapter does not apply to an action brought under**
7 **IC 24-1 concerning restraint of trade.**
8 **Sec. 2. As used in this chapter, "governmental entity" means an**
9 **agency, department, or board exercising a regulatory function of**
10 **the state or a political subdivision of the state.**
11 **Sec. 3. (a) As used in this chapter, "prevail" means to obtain a**
12 **favorable final judgment in an action:**
13 **(1) on substantially all counts, claims, or charges in the action;**
14 **and**
15 **(2) with respect to the most significant issue or set of issues**
16 **presented in the action;**
17 **after the right to all appeals has been exhausted.**



1 **(b) The term does not include the settlement of an action, either**
 2 **by stipulation, consent decree, or otherwise, regardless of when the**
 3 **settlement occurs.**

4 **Sec. 4. As used in this chapter, "reasonable litigation expenses"**
 5 **means:**

- 6 **(1) court costs;**
- 7 **(2) administrative hearing costs;**
- 8 **(3) attorney's fees; and**
- 9 **(4) witness fees;**

10 **that a court finds were reasonably incurred by a party in opposing**
 11 **a civil action or administrative action brought against the party by**
 12 **a governmental entity.**

13 **Sec. 5. If:**

- 14 **(1) a governmental entity brings a civil action against a party**
 15 **that involves the regulatory functions of the governmental**
 16 **entity;**
 - 17 **(2) the party prevails in the civil action; and**
 - 18 **(3) the court finds that the civil action was brought by the**
 19 **governmental entity without substantial justification;**
- 20 **the court shall award reasonable litigation expenses to the party.**

21 **Sec. 6. If:**

- 22 **(1) a governmental entity makes a final administrative**
 23 **decision concerning a party that:**
 - 24 **(A) involves the regulatory functions of the governmental**
 25 **entity; and**
 - 26 **(B) is appealed under IC 4-21.5-5 by the party;**
- 27 **(2) the party prevails in the appeal; and**
- 28 **(3) a court finds that the administrative action that led to the**
 29 **final administrative decision was undertaken without**
 30 **substantial justification;**

31 **the court shall award reasonable litigation expenses to the party.**

32 **Sec. 7. A party must exhaust all administrative remedies**
 33 **available to the party before the party may be awarded reasonable**
 34 **litigation expenses under this chapter.**

35 **Sec. 8. If a governmental entity is required to pay reasonable**
 36 **litigation expenses under this chapter, the expenses must be paid**
 37 **from money in the regular operating budget of the governmental**
 38 **entity.**

