

**Lost
AMENDMENT NO 1 PROPOSED TO**

Cmte Sub for Senate Bill No. 2763

BY: Senator(s) Dearing

1 **AMEND by adding the following after line 1267:**

2 **SECTION *.** Section 11-55-5, Mississippi Code of 1972, is
3 amended as follows:

4 11-55-5. (1) Except as otherwise provided in this chapter,
5 in any civil action commenced or appealed in any court of record
6 in this state, the court shall award, as part of its judgment and
7 in addition to any other costs otherwise assessed, reasonable
8 attorney's fees and costs against any party or attorney if the
9 court, upon the motion of any party or on its own motion, finds
10 that an attorney or party brought an action, or asserted any claim
11 or defense, that is without substantial justification, or that the
12 action, or any claim or defense asserted, was interposed for delay
13 or harassment, or if it finds that an attorney or party
14 unnecessarily expanded the proceedings by other improper conduct
15 including, but not limited to, abuse of discovery procedures
16 available under the Mississippi Rules of Civil Procedure.

17 (2) No attorney's fees or costs shall be assessed if a
18 voluntary dismissal is filed as to any action, claim or defense
19 within a reasonable time after the attorney or party filing the
20 action, claim or defense knows or reasonably should have known
21 that it would not prevail on the action, claim or defense.

22 (3) When a court determines reasonable attorney's fees or
23 costs should be assessed, it shall assess the payment against the
24 offending attorneys or parties, or both, and in its discretion may
25 allocate the payment among them, as it determines most just, and
26 may assess the full amount or any portion to any offending
27 attorney or party.

28 (4) No party, except an attorney licensed to practice law in
29 this state, who is appearing without an attorney shall be assessed
30 attorney's fees unless the court finds that the party clearly knew
31 or reasonably should have known that such party's action, claim or
32 defense or any part of it was without substantial justification.

33 (5) In addition to the award of attorney's fees and costs
34 awarded under this chapter, upon proof made thereon, the court
35 shall award to a party prevailing on its motion for attorney's
36 fees and costs damages for losses suffered, including, but not
37 limited to, pain and suffering, loss of business, loss of
38 goodwill, loss of clientele and any other compensatory damages as
39 that term is defined in Section 11-1-65.

40 **FURTHER, amend the title to conform.**