

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

2

SENATE BILL 911
Judiciary I Committee Substitute Adopted 5/25/05

Short Title: Class Actions and Unpaid Residuals.

(Public)

Sponsors:

Referred to:

March 24, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE DISTRIBUTION OF UNPAID RESIDUALS IN
3 CLASS ACTION LITIGATION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Subchapter VIII of Chapter 1 of the General Statutes is
6 amended by adding a new Article to read:

7 "Article 26B.

8 "Distribution of Unpaid Residuals in Class Action Litigation.

9 **"§ 1-267.10. Distribution of unpaid residuals in class action litigation.**

10 (a) It is the intent of the General Assembly to ensure that the unpaid residuals in
11 class action litigation are distributed, to the extent possible, in a manner designed either
12 to further the purposes of the underlying causes of action or to promote justice for all
13 citizens of this State. The General Assembly finds that the use of funds collected by the
14 State courts pursuant to this section for these purposes is in the public interest, is a
15 proper use of the funds, and is consistent with essential public and governmental
16 purposes.

17 (b) Prior to the entry of any judgment or order approving settlement in a class
18 action established pursuant to Rule 23 of the Rules of Civil Procedure, the court shall
19 determine the total amount that will be payable to all class members, if all class
20 members are paid the amount to which they are entitled pursuant to the judgment or
21 settlement. The court shall also set a date when the parties shall report to the court the
22 total amount that was actually paid to the class members. After the report is received,
23 the court shall direct the defendant to pay the sum of the unpaid residue to the Class
24 Action Residual Reserve Fund established in G.S. 143-16.6."

25 **SECTION 2.** Article 1 of Chapter 143 of the General Statutes is amended by
26 adding the following new section to read:

27 **"§ 143-16.6. Class Action Residual Reserve Fund.**

28 (a) The Class Action Residual Reserve Fund is created as a restricted reserve in
29 the General Fund. Funds in the Fund do not revert but remain available for the purposes

1 specified in this section. Interest earned on the Fund shall be paid to the General Fund.
2 Except as otherwise provided in this section, funds shall be expended from the Class
3 Action Residual Reserve Fund only by specific appropriation by the General Assembly.

4 (b) Of the funds available in the Class Action Residual Reserve Fund as of July 1
5 of each year, up to five million dollars (\$5,000,000) shall be divided and credited
6 equally to the Indigent Persons' Attorney Fee Fund and to the North Carolina State Bar
7 for the provision of civil legal services for indigents."

8 **SECTION 3.** This act becomes effective October 1, 2005, and applies to
9 causes of action that arise on or after that date.