

CS FOR SENATE BILL NO. 123(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 2/22/00

Referred: Rules

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to public interest litigants and to attorney fees; and amending
2 Rule 82, Alaska Rules of Civil Procedure."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 09.60.010 is amended to read:

5 **Sec. 09.60.010. Costs and attorney fees allowed prevailing party.** The
6 supreme court shall determine by rule or order the costs, if any, that may be allowed
7 a prevailing party in a civil action. Unless specifically authorized by statute or by
8 agreement between the parties, attorney fees may not be awarded to a party in a civil
9 action for personal injury, death, or property damage related to or arising out of fault,
10 as defined in AS 09.17.900, unless the civil action is contested without trial, or fully
11 contested as determined by the court. Attorney fees may only be awarded to or
12 against a public interest litigant as provided in Rule 82(g), Alaska Rules of Civil
13 Procedure, on the effective date of this Act.

14 * **Sec. 2.** Rule 82(b), Alaska Rules of Civil Procedure, is amended by adding a new

1 paragraph to read:

2 (5) If the court chooses to vary an award of attorney's fees under (b)(3)
3 of this rule by increasing the award beyond the amounts provided in (b)(1) or (2) of
4 this rule, then the court shall apportion the attorney's fees by issue and may only
5 award the increased fees for an issue the party prevailed upon unless the court finds
6 exceptional circumstances to be present that require an increased award of fees without
7 apportionment by issue.

8 * **Sec. 3.** Rule 82, Alaska Rules of Civil Procedure, is amended by adding a new
9 subsection to read:

10 (g) **Attorney's Fees for Public Interest Litigants.** Attorney's fees shall be
11 awarded to or against a public interest litigant in the same manner as attorney's fees
12 may be awarded to or against a non-public interest litigant under (b) of this section.

13 * **Sec. 4.** Section 1 of this Act takes effect only if secs. 2 and 3 of this Act receive the
14 two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State
15 of Alaska.