

# SENATE BILL No. 1002

December 13, 2007, Introduced by Senators RICHARDVILLE, KAHN, BIRKHOLZ, GEORGE, PAPPAGEORGE, GILBERT, McMANUS, ALLEN, VAN WOERKOM, KUIPERS, JANSEN, HARDIMAN, STAMAS and BROWN and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
(MCL 600.101 to 600.9947) by adding section 2443.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 2443. (1) EXCEPT AS OTHERWISE PROVIDED BY LAW OR AGREED  
2 TO BY THE PARTIES, A COURT SHALL AWARD THE PREVAILING PARTY IN A  
3 CIVIL ACTION AN ATTORNEY FEE DETERMINED AS PROVIDED IN SUBSECTION  
4 (2).

5           (2) AN ATTORNEY FEE AWARDED UNDER SUBSECTION (1) SHALL BE  
6 REASONABLE AND CALCULATED BASED ON AN HOURLY RATE THAT DOES NOT  
7 EXCEED A RATE THAT THE COURT CONSIDERS ACCEPTABLE IN THE COMMUNITY  
8 IN WHICH THE ATTORNEY PRACTICES LAW, TAKING INTO ACCOUNT THE  
9 ATTORNEY'S QUALIFICATIONS AND EXPERIENCE AND THE COMPLEXITY OF THE  
10 CASE.

1           (3) IF A COURT FINDS THAT SPECIAL CIRCUMSTANCES EXIST THAT  
2 MAKE AN AWARD OF AN ATTORNEY FEE CALCULATED AS PROVIDED IN  
3 SUBSECTION (2) UNJUST OR INEQUITABLE, THE COURT IN ITS DISCRETION  
4 MAY REFUSE TO AWARD AN ATTORNEY FEE OR MAY REDUCE THE AMOUNT  
5 AWARDED.

6           (4) AS USED IN THIS SECTION, "PREVAILING PARTY" MEANS A PARTY  
7 WHO WINS ON THE ENTIRE RECORD.