

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 225**

**Representative Butler**

**Cosponsors: Representatives Adams, J., Becker, Retherford, Scherer,  
Wachtmann**

**—**

**A BILL**

To enact section 2307.31 of the Revised Code to  
create a procedure for settling civil actions  
between parties other than natural persons and  
providing for an award of reasonable attorney's  
fees and litigation expenses by motion or by a  
separate action in certain situations in which a  
judgment is entered against a party that rejects  
an offer of settlement.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 2307.31 of the Revised Code be  
enacted to read as follows:

**Sec. 2307.31.** (A) As used in this section, "entity" means any  
of the following:

(1) A for-profit or nonprofit organization incorporated under  
Title XVII of the Revised Code or any other law of this state, any  
other state, or the United States;

(2) A business trust, real estate investment trust, limited  
liability company, limited partnership, or limited partnership  
association organized under Title XVII of the Revised Code or any

other law of this state, any other state, or the United States; 19

(3) A bank, savings bank, or savings and loan association 20  
chartered under the laws of the United States. 21

(B) At any time more than thirty days after the service of a 22  
summons and complaint on a party but not less than thirty days 23  
before trial, or not less than twenty days before trial in the 24  
case of a counteroffer, any party that is an entity may serve on 25  
any opposing party that is an entity a written offer to settle a 26  
civil action for the amount of money specified in the offer and to 27  
enter into an agreement dismissing the claim or to allow judgment 28  
to be entered accordingly. The offer shall do all of the 29  
following: 30

(1) State that the offer is being made pursuant to section 31  
2307.31 of the Revised Code; 32

(2) Identify the party or parties making the offer and the 33  
party or parties to whom the offer is being made; 34

(3) Generally identify the claim or claims the offer is 35  
attempting to resolve; 36

(4) State with particularity any conditions upon which the 37  
offer is being made; 38

(5) State the total amount of the offer; 39

(6) State with particularity the amount proposed to settle a 40  
claim for punitive damages, if any; 41

(7) State whether the offer includes attorney's fees or other 42  
expenses and whether attorney's fees or other expenses are part of 43  
the legal claim; 44

(8) Be accompanied by proof of service. 45

(C)(1) If a plaintiff rejects an offer of settlement made by 46  
a defendant pursuant to this section and if the final judgment is 47  
one of no liability or for an amount that is less than 48

seventy-five per cent of the offer, the defendant may recover 49  
reasonable attorney's fees and expenses of litigation incurred by 50  
the defendant or on the defendant's behalf from the date of the 51  
rejection of the offer through the entry of judgment. 52

(2) If a defendant rejects an offer of settlement made by the 53  
plaintiff pursuant to this section and the plaintiff recovers a 54  
final judgment in an amount greater than one hundred and 55  
twenty-five per cent of the offer, the plaintiff may recover 56  
reasonable attorney's fees and expenses of litigation incurred by 57  
the plaintiff or on the plaintiff's behalf from the date of the 58  
rejection of the offer through the entry of judgment. 59

(D) An offer made under this section shall remain open for 60  
thirty days unless, before the expiration of the thirty-day 61  
period, the offeror withdraws the offer by a writing served on the 62  
offeree prior to acceptance by the offeree or the offeree rejects 63  
the offer. If the offeror withdraws the offer before the 64  
expiration of the thirty-day period, the offeror may not recover 65  
attorney's fees and expenses under division (C) of this section. A 66  
counteroffer constitutes a rejection, but it may serve as an offer 67  
if it is specifically denominated as an offer under this section. 68

(E) Acceptance or rejection of an offer by the offeree must 69  
be in writing and served upon the offeror. An offer that is 70  
neither withdrawn nor accepted within thirty days after being 71  
served shall be deemed rejected. 72

(F) Service of an offer or of an acceptance, rejection, or 73  
withdrawal of an offer shall be made in the manner prescribed in 74  
Civil Rule 5, except that the offer, acceptance, rejection, or 75  
withdrawal shall not be filed with the court. 76

(G) The rejection of an offer does not preclude the offeror 77  
from making one or more subsequent offers. A party's right to 78  
recover attorney's fees and expenses under division (C) of this 79

section is determined in accordance with the last offer made by 80  
that party under this section. 81

(H) Evidence of an offer is not admissible except in 82  
proceedings to enforce a settlement or to determine reasonable 83  
attorney's fees and costs under this section. 84

(I)(1) After affirmance of the judgment on appeal or, if no 85  
appeal is taken, after the expiration of the time within which a 86  
notice of appeal must be filed, a party may apply to the court for 87  
an order requiring payment of attorney's fees and expenses under 88  
division (C) of this section. Subject to division (I)(2) of this 89  
section, upon receipt of proof that the judgment is one to which 90  
division (C) of this section applies and proof of the attorney's 91  
fees and expenses incurred, the court shall order the payment of 92  
reasonable attorney's fees and expenses. 93

(2) The court may deny an application made under division 94  
(I)(1) of this section if the court determines that the offer was 95  
not made in good faith. The court shall deny an application made 96  
under division (I)(1) of this section if it determines, on a 97  
motion made under section 2323.51 of the Revised Code, that the 98  
party making the application asserted a frivolous claim or 99  
defense. If the court denies the application, it shall set forth 100  
the basis for the denial in the order denying the application. 101

(J)(1) If a party makes an offer of settlement in accordance 102  
with this section and the offeree rejects the offer, the offeror 103  
has a cause of action against the offeree for attorney's fees and 104  
expenses as determined under division (C) of this section. The 105  
cause of action accrues upon affirmance of the judgment on appeal 106  
or, if no appeal is taken, upon the expiration of the time within 107  
which a notice of appeal must be filed. An action under division 108  
(J)(1) of this section shall be brought within one year after the 109  
cause of action accrues. 110

(2) It is an affirmative defense to an action brought under 111  
division (J)(1) of this section that the offeror did not make the 112  
offer in good faith or that the offeror asserted a frivolous claim 113  
or defense in the action in which the offer was made. 114

(3) A court may award reasonable attorney's fees and expenses 115  
of litigation to the prevailing party in an action brought under 116  
division (J)(1) of this section. 117

(4) Divisions (B) to (I) of this section do not apply to an 118  
action brought under division (J)(1) of this section. 119

(K) A party may not seek relief under both division (I) and 120  
division (J) of this section. 121