

SENATE BILL NO. 286

INTRODUCED BY F. MOORE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING CONTRACTUAL RIGHTS TO ATTORNEY FEES; PROVIDING THAT A PARTY WITH CONDEMNATION AUTHORITY OVER PROPERTY OF A PRIVATE PARTY IS NOT ENTITLED TO RECOVER ATTORNEY FEES FROM THE LOSING PRIVATE PARTY WITH RESPECT TO THE ENFORCEMENT OF A CONTRACT OR OBLIGATION INVOLVING THE PRIVATE PARTY'S PROPERTY; AMENDING SECTION 28-3-704, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 28-3-704, MCA, is amended to read:

"28-3-704. Contractual right to attorney fees treated as reciprocal. (1) Whenever, Except as provided in subsection (2), whenever, by virtue of the provisions of any contract or obligation in the nature of a contract made and entered into at any time after July 1, 1971, one party to the contract or obligation has an express right to recover attorney fees from any other party to the contract or obligation in the event the party having that right brings an action upon the contract or obligation, then in any action on the contract or obligation all parties to the contract or obligation are considered to have the same right to recover attorney fees and the prevailing party in any action, whether by virtue of the express contractual right or by virtue of this section, is entitled to recover reasonable attorney fees from the losing party or parties.

(2) For a contract or obligation negotiated between a private party and a party with condemnation authority over the private party's property, the party with condemnation authority is not entitled to recover attorney fees from the losing party or parties pursuant to subsection (1) IN AN ACTION TO ENFORCE A CONTRACT OR OBLIGATION INVOLVING THE PROPERTY."

NEW SECTION. Section 2. Applicability. [This act] applies to contracts or obligations between a private party and a party with condemnation authority over the private party's property entered into on or after [the effective date of this act].

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