



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2005 Assembly Bill 149**

**Assembly Substitute  
Amendment 2**

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Current law allows the prevailing party in a civil action to recover certain litigation costs. Attorney fees are included in those recoverable costs but the amount that may be recovered is limited by statute. The recoverable attorney fees range from \$100 to \$500, depending on the amount recovered or type of action. Section 814.04 (1), Stats.

Current law also provides that if a civil judgment is by default or voluntary dismissal by the adverse party, the attorney fees recoverable as costs are reduced by one-half. Section 814.04 (6), Stats.

*Assembly Bill 149* repeals the provision that reduces recoverable attorney fees by one-half for default judgments or voluntary dismissals. Thus, under the bill, the full amount of recoverable attorney fees would be awarded in such cases.

*Assembly Substitute Amendment 2* retains the current one-half reduction of recoverable attorney fees but limits its application to certain cases brought by a debt collector who has purchased the debt. The substitute amendment defines debt collector as it is defined in s. 427.103 (3), Stats., which in general terms means a person who engages directly or indirectly in the collection of debts incurred under the Wisconsin Consumer Act. Thus, under the substitute amendment, if an action is brought by a debt collector who has purchased a consumer act debt and the judgment is by default or voluntary dismissal, recoverable attorney fees are reduced by one-half. In all other civil actions, full statutory attorney fees would be awarded in default judgments and voluntary dismissals.

### *Legislative History*

Assembly Substitute Amendment 2 was offered by Representative Kessler and adopted by the Assembly on a voice vote.

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