

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 736
Judiciary III Committee Substitute Adopted 5/9/89

Short Title: Atty. Fees/Statutory Lien Actions.

(Public)

Sponsors:

Referred to:

April 3, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE ATTORNEY'S FEES TO PREVAILING PARTIES IN
3 ACTIONS RELATING TO STATUTORY LIENS ON REAL PROPERTY AND
4 PAYMENT AND PERFORMANCE BONDS.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 44A of the General Statutes is amended by adding a new
7 section to read:

8 **"§ 44A-35. Attorney's fees.**

9 In any suit brought or defended under the provisions of Article 2 or Article 3 of
10 this Chapter, the presiding judge may allow a reasonable attorney's fee to the attorney
11 representing the prevailing party. This attorney's fee is to be taxed as part of the court
12 costs and be payable by the losing party upon a finding that there was an unwarranted
13 refusal by the losing party to fully resolve the matter which constituted the basis of the
14 suit or the basis of the defense. For purposes of this section, 'prevailing party' is a party
15 plaintiff or third party plaintiff who obtains judgment of at least fifty percent (50%) of
16 the monetary amount sought in a claim and/or is a party defendant or third party
17 defendant against whom a claim is asserted which results in a judgment less than fifty
18 percent (50%) of the amount sought in the claim defended. Notwithstanding the
19 foregoing, in the event an offer or judgment is served in accordance with G.S. 1A-1,
20 Rule 68, a 'prevailing party' is an offeree who obtains judgment more favorable than the
21 last offer or is an offeror against whom judgment is rendered in an amount less
22 favorable than the last offer."

1 Sec. 2. This act is effective upon ratification and shall apply to actions filed
2 on or after that date.