

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1081
Committee Substitute Favorable 6/26/97

Short Title: Condemnation Awards.

(Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND LAWS GOVERNING CONDEMNATION TO AUTHORIZE
AWARD OF ATTORNEYS' FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-8 is amended by adding a new subsection to read:

"(d) In addition to the other costs allowed under this Chapter, in any action brought under Article 2 or Article 3 of this Chapter in which the judgment, including a consent judgment, awarded to the owner exceeds the amount of the commissioners' report under G.S. 40A-27 or the deposit under G.S. 40A-41 by at least seven hundred dollars (\$700.00) and at least twenty percent (20%), the court with jurisdiction over the action may, after making appropriate findings of fact, award each owner of the condemned property a sum that, in the opinion of the court based upon its findings of fact, will reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorneys', appraisal, and engineering fees, in such amounts as the court shall in its discretion determine and allow."

Section 2. G.S. 136-119 reads as rewritten:

"§ 136-119. Costs and appeal.

(a) The Department of Transportation shall pay all court costs taxed by the court. Either party shall have a right of appeal to the Supreme Court for errors of law committed

1 in any proceedings provided for in this Article in the same manner as in any other civil
2 actions and it shall not be necessary that an appeal bond be posted.

3 The court having jurisdiction of the condemnation action instituted by the Department
4 of Transportation to acquire real property by condemnation shall award the owner of any
5 right, or title to, or interest in, such real property such sum as will in the opinion of the
6 court reimburse such owner for his reasonable cost, disbursements, and expenses,
7 including reasonable attorney fees, appraisal, and engineering fees, actually incurred
8 because of the condemnation proceedings, if (i) the final judgment is that the Department
9 of Transportation cannot acquire real property by condemnation; or (ii) the proceeding is
10 abandoned by the Department of Transportation.

11 The judge rendering a judgment for the plaintiff in a proceeding brought under G.S.
12 136-111 awarding compensation for the taking of property, shall determine and award or
13 allow to such plaintiff, as a part of such judgment, such sum as will in the opinion of the
14 judge reimburse such plaintiff for his reasonable cost, disbursements and expenses,
15 including reasonable attorney, appraisal, and engineering fees, actually incurred because
16 of such proceeding.

17 (b) In addition to the other costs allowed under this Article, in any action brought
18 under this Article in which the judgment, including a consent judgment, awarded to the
19 owner exceeds the amount of the deposit under G.S. 136-103 by at least seven hundred
20 dollars (\$700.00) and at least twenty percent (20%), the court with jurisdiction over the
21 action may, after making appropriate findings of fact, award each owner of the
22 condemned property a sum that, in the opinion of the court based upon its findings of
23 fact, will reimburse the owner for reasonable costs, disbursements, and expenses,
24 including reasonable attorneys', appraisal, and engineering fees, in such amounts as the
25 court shall in its discretion determine and allow."

26 Section 3. This act becomes effective October 1, 1997, and applies to actions
27 commenced on or after that date.