

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 44

Short Title: Condemnation Awarding Costs.

(Public)

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Sponsors: Representative Gamble.

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Referred to: Judiciary I.

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February 4, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE AWARDING OF COSTS WHEN THE  
JUDGMENT IN A CONDEMNATION ACTION IS LARGER THAN THE  
DEPOSIT BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-119 reads as rewritten:

**"§ 136-119. Costs and appeal.**

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

The court having jurisdiction of the condemnation action instituted by the Department of Transportation to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable cost, disbursements, and expenses, including reasonable attorney fees, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if (i) the final judgment is that the Department of Transportation cannot acquire real property by condemnation; ~~or~~ (ii) the proceeding is abandoned by the Department of ~~Transportation~~ Transportation; or (iii) the final judgment is that the Department of Transportation shall pay to the property owner an amount that is greater than one hundred ten percent (110%) of the amount that was deposited with the court pursuant to G.S. 136-103.

The judge rendering a judgment for the plaintiff in a proceeding brought under G.S. 136-111 awarding compensation for the taking of property, shall determine and award

1 or allow to such plaintiff, as a part of such judgment, such sum as will in the opinion of  
2 the judge reimburse such plaintiff for his reasonable cost, disbursements and expenses,  
3 including reasonable attorney, appraisal, and engineering fees, actually incurred because  
4 of such proceeding."

5           Sec. 2. This act is effective upon ratification.