



House of Representatives

File No. 752

General Assembly

January Session, 2007

(Reprint of File No. 529)

Substitute House Bill No. 7236
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 3, 2007

**AN ACT CONCERNING COSTS AND ATTORNEY'S FEES IN AN
ACTION UPON A BOND SUBSTITUTED FOR A MECHANIC'S LIEN.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2007*) A plaintiff who prevails
- 2 in any action upon a bond which has been substituted for a mechanic's
- 3 lien shall be allowed costs, including a reasonable attorney's fee.

This act shall take effect as follows and shall amend the following sections:		
---	--	--

Section 1	<i>October 1, 2007</i>	New section
-----------	------------------------	-------------

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill provides for the recovery of costs and reasonable attorney’s fees in certain civil suits between private parties. There is no related fiscal impact.

House Amendment “A” made a clarifying change that has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 7236 (as amended by House "A")******AN ACT CONCERNING ATTORNEY'S FEES IN AN ACTION OF FORECLOSURE OR UPON A BOND SUBSTITUTED FOR A MECHANIC'S LIEN.*****SUMMARY:**

This bill specifies that a plaintiff who prevails in any action upon a bond that has been substituted for a mechanic's lien must be allowed costs and reasonable attorney's fees (see BACKGROUND).

EFFECTIVE DATE: October 1, 2007

*House Amendment "A" eliminates a provision in the bill that allows the plaintiff in any action to foreclose a mortgage or lien to be awarded costs and reasonable attorney's fees when he obtains a judgment, instead of only when there has been a hearing as to the form of judgment or the limitation on the time to redeem the mortgage.

BACKGROUND***Related Law and Case - Substitution of a Bond***

The mechanic's lien statute allows for the substitution of a bond for a lien (CGS § 49-35b). A recent Superior Court decision concluded that the statutes do not require that costs and attorney's fees be allowed when a bond is substituted for a lien and the claimant succeeds with a claim on the bond (*A & A Mason, LLC v. Montagno Construction, Inc.* No. CV-01-0809850S, Judicial District of Hartford, Judge Trial Referee Robert Satter, May 10, 2005).

The court inferred that, in a foreclosure action, the phrase "the form of judgment" used in the law the bill amends relates to either a strict foreclosure or a foreclosure by sale. Thus, the court concluded that, in

an action on a bond there is no hearing as to the form of the judgment or the time for redemption.

Related Laws - Fees of Parties in Civil Actions

By law, the prevailing party in any such civil action must receive, by way of indemnity, the following sums (1) for all proceedings before trial, \$50; and (2) for the trial of an issue of law or fact, \$75. But if more than one issue of fact is tried at one time, only one trial fee is allowed (CGS § 52-257; see also CGS § 52-259).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0 (04/02/2007)