

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 614
HOUSE BILL 861

AN ACT TO ASSESS ATTORNEY FEES, RESTORE MONEYS, AND TO PROVIDE
PENALTIES IN DECEPTIVE PRACTICE ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 75 of the General Statutes is hereby amended by adding a new G.S. 75-16.1 to read as follows:

"§ 75-16.1. **Attorney fee.** — In any suit instituted by a person who alleges that the defendant violated G.S. 75-1.1, the presiding judge may, in his discretion, allow a reasonable attorney fee to the duly licensed attorney representing the prevailing party, such attorney fee to be taxed as a part of the court costs and payable by the losing party, upon a finding by the presiding judge that:

- (1) the party charged with the violation has willfully engaged in the act or practice, and there was an unwarranted refusal by such party to pay the claim which constitutes the basis of such suit; or
- (2) the party instituting the action knew, or should have known, the action was frivolous and malicious."

Sec. 2. Chapter 75 of the General Statutes is hereby amended by adding a new G.S. 75-16.2 to read as follows:

"§ 75-16.2. **Restoration and cancellation.** — In any suit instituted by the Attorney General to enjoin a practice alleged to violate G.S. 75-1.1, the presiding judge may, upon a final determination of the cause, order the restoration of any moneys or property and the cancellation of any contract obtained by any defendant as a result of such violation."

Sec. 3. Appointment of receiver. — G.S. 1-502 is hereby amended by adding a new subsection to read as follows:

"(5) In cases wherein restitution is sought for violations of G.S. 75-1.1."

Sec. 4. This act shall not apply to pending litigation.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May,
1973.