

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

‘Sec. 1. 12 MRSA §8870, sub-§6 is enacted to read:

6. Costs permitted. In any action or proceeding brought by the Attorney General under this section, the court may award litigation costs, including court costs, reasonable attorney's fees and reasonable expert witness fees, to be deposited in the General Fund of the State if the State or any of its officers or agencies is a prevailing party in the action or proceeding and the defendant's defense was not substantially justified. For the purposes of this subsection, a defense is "substantially justified" if the defense had a reasonable basis in law or fact at the time it was raised.

Sec. 2. 12 MRSA §9701, as enacted by PL 1979, c. 545, §3, is amended to read by adding at the end a new paragraph to read:

In any action or proceeding brought by the Attorney General under this section, the court may award litigation costs, including court costs, reasonable attorney's fees and reasonable expert witness fees, to be deposited in the General Fund of the State if the State or any of its officers or agencies is a prevailing party in the action or proceeding and the defendant's defense was not substantially justified. For the purposes of this subsection, a defense is "substantially justified" if the defense had a reasonable basis in law or fact at the time it was raised.’

SUMMARY

This amendment replaces the bill.

This amendment retains the bill's original intent to allow the Attorney General or the agency it represents to collect reasonable attorney's fees and other costs of litigation for enforcement actions under laws regulating forest practices. This amendment provides that the court has discretion to award costs to the State if the State prevails and the defendant's defense is not substantially justified.

FISCAL NOTE REQUIRED

(See attached)